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CONSTITUTIONAL CONVENTION

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CONSTITUTIONAL CONVENTION

OF THE

STATE OF MARYLAND

Chamber of the House of Delegates

State Capitol

Annapolis, Maryland

December 5, 1967 - 10:00 a.m.

HONORABLE H. VERNON ENEY,  
PRESIDENT

Reported by:

P. Banister  
and  
D. Fitzgerald





P R O C E E D I N G S

THE PRESIDENT: The Sergeant at Arms will clear the aisles and close the doors.

The Convention will please come to order.

The invocation will be offered this morning by the Reverend John C. Chatlos of Incarnation United Church of Christ, Emmitsburg, Maryland, Frederick County.

Reverend Chatlos.

REVEREND CHATLOS: Let us unite in prayer.

Almighty God without whom no people can be great, we thank Thee for the progress and prosperity given to this State, and for the countless temporal and spiritual blessings bestowed upon its people. We thank Thee for our birth and education under Christian influences, and for the civil and religious liberty that we enjoy.

Keep us every aware that the good things that we enjoy have come from Thee, and that Thou didst lend them to us. Make us more sensitive to Thy goodness and to our responsibility as stewards of Thy gifts; and grant us such true religion that by our works and by our lives Thy Holy Name may be forever glorified.





1 Deliver us from every influence that would break  
2 down reverence for law and corrupt our sense of corporate  
3 responsibility. Purge our State from its evils, and fill  
4 it with the spirit of Christ. Make it a mighty factor in  
5 changing the world into the Kingdom of Heaven.

6 Spare us, O God, from the faithlessness of be-  
7 lieving that as things have been, so they must ever be, and  
8 from the timidity of fearing to take the risks of progress.  
9 Give us the courage which our times demand, that we may  
10 build a world which will be safe for our children and our  
11 children's children, and in which all men shall bow before  
12 the Prince of Peace, ever Jesus Christ, our Lord.

13 Uphold Thy servant, the Governor of our State,  
14 and all others whom the people have entrusted with power,  
15 that instructed by Thy spirit, they may govern this  
16 State according to the laws of that Kingdom which has no  
17 end.

18 Guide these delegates of the Constitutional Con-  
19 vention, we pray Thee, that by wise legislation and faith-  
20 ful administration the rights of all citizens may be  
21 protected, and our State may be enabled to fulfill Thy





1 purposes.

2 Assist these delegates with Thy grace in all the  
3 work which they are to undertake. Direct them by Thy wisdom  
4 and support them by Thy power, that doing their duty  
5 diligently they may bring it to a good end for the greater  
6 glory of Thy Name.

7 May Thy will be accomplished on earth. May  
8 righteousness be victorious, and all men learn to know them-  
9 selves as brothers and sons of our Heavenly Father.

10 We pray in the name of Jesus Christ, Thy Son,  
11 our Lord and Saviour.

12 Amen.

13 THE PRESIDENT: Thank you, Reverend Chatlos.

14 Roll call.

15 (Whereupon, the roll was called.)

16 THE PRESIDENT: Have all delegates answered  
17 roll call?

18 DELEGATE BOTHE: I have pressed it, but --

19 THE PRESIDENT: The Clerk will record the  
20 roll call.

21 There being a quorum present, the Convention





1 is in session.

2 The Chair recognizes Delegate Powers, Chairman  
3 of the Committee on Calendar and Agenda.

4 DELEGATE POWERS: Mr. Chairman, I move that  
5 the calendar be amended to provide for resuming considera-  
6 tion of Committee Recommendation SF-3, and considering  
7 Committee Recommendation SF-4 and 5, and as so amended the  
8 calendar be adopted.

9 THE PRESIDENT: Is there a second?

10 (Whereupon, the motion was seconded.)

11 THE PRESIDENT: All in favor, signify by saying  
12 Aye; contrary, No.

13 The Ayes have it, and it is so ordered. The  
14 calendar is amended, and as amended, it is adopted.

15 Are there any other reports of standing commit-  
16 tees?

17 At the request of the Chair, the Committee on  
18 Rules, Credentials and Convention budget has returned  
19 without action Resolution No. 16. The Chair understands  
20 that on behalf of the sponsors of that resolution Delegate  
21 Bard desires to withdraw it.



1 Is this correct?

2 DELEGATE BARD: Mr. Chairman.

3 THE PRESIDENT: Delegate Bard.

4 DELEGATE BARD: Mr. Chairman, I should  
5 like to make it clear that I desire to withdraw resolution  
6 16.

7 THE PRESIDENT: Resolution 16 is withdrawn,  
8 and it will be so noted in the journal.

9 Are there any motions or resolutions?

10 The Chair wishes to extend on behalf of all  
11 of you thanks to Delegate Lucille Maurer for the very lovely  
12 flowers on the rostrum this morning.

13 The Chair recognizes Delegate Powers.

14 DELEGATE POWERS: Mr. Chairman, I move the  
15 Convention resolve itself into a Committee of the Whole  
16 for the purpose of considering the general orders of the  
17 day.

18 THE PRESIDENT: Is there a second to the  
19 motion?

20 (Whereupon, the motion was seconded.)

21 THE PRESIDENT: All in favor, signify by saying





1 Aye; contrary, No.

2 The Ayes have it, and it is so ordered.

3 (Whereupon, at 10:17 a.m., the Convention  
4 resolved itself into a Committee of the Whole.)

5 (The mace was removed by the Sergeant at Arms.)

6 THE CHAIRMAN: The Committee of the Whole will  
7 please come to order.

8 We have under consideration Committee Recommen-  
9 dation SF-3, being presented by the Vice Chairman of the  
10 Committee, Delegate Case.

11 The Chair requests him to come forward and resume  
12 the presentation of the report.

13 At the hour of adjournment last evening, Delegate  
14 Hanson was engaged in asking a series of questions to  
15 the Chairman of the Committee. The Chair recognizes  
16 Delegate Hanson for the purpose of resuming the questioning.

17 Delegate Hanson.

18 DELEGATE HANSON: Mr. Case, our discussion last  
19 night regarding section 8.02, talking about the final clause  
20 in that section relating to the property devoted to agricul-  
21 tural uses as prescribed by law, will you explain what





1 difference there is in the effect of the last phrase,  
2 "as described by law," and the previous phrase in the pre-  
3 ceding clause, "as may be determined by law"? Does the  
4 latter add anything to the former?

5 DELEGATE CASE: The purpose of the latter is to  
6 give the General Assembly and/or its creature, the State  
7 Department of Assessments and Taxation, the power to de-  
8 fine a farm for the purpose of this particular clause.

9 I suppose that that would be a determination  
10 also, and therefore it is possible that they are synony-  
11 mous.

12 DELEGATE HANSON: Thank you.

13 Is there anything in the second clause of 8.02  
14 which through the use of the word "shall" would prohibit  
15 the General Assembly from repealing the farmland assessment  
16 act if it saw fit to do so?

17 DELEGATE CASE: You mean the present farmland --

18 DELEGATE HANSON: Yes.

19 DELEGATE CASE: Well, Delegate Hanson, if this  
20 is passed in the form that it is now in, the General  
21 Assembly could modify the present law in any way that it



1 saw fit.

2 Of course, you must understand that this section  
3 as written mandates classification.

4 Now, among the classes that must be struck is  
5 classification for agricultural use, so the General Assembly  
6 could not repeal absolutely the present law which is on the  
7 books, leaving no law on the books with respect to agricul-  
8 tural classifications, but it could repeal and re-enact  
9 it to change it to modify it, to bring it up to modern  
10 standards, and so on.

11 THE CHAIRMAN: Delegate Hanson, will you pause  
12 just a second?

13 The chair has been asked to announce -- I suppose  
14 the tag number, 883182, a Volvo, is on the legislative  
15 parking lot with a motor running. It is a very quiet  
16 motor. (Laughter.)

17 Delegate Hanson.

18 DELEGATE HANSON: As I understand your  
19 responses yesterday evening and this morning, the General  
20 Assembly could also leave the law as it is, assuming that  
21 this is an adequate definition, subject to the authority





1 that it has given the Department of Taxation and  
2 Assessment to establish a criteria for the assessors,  
3 which now I believe number 29 various criteria.

4 DELEGATE CASE: No. You are mistaken about  
5 that, Delegate Hanson. The regulation has 29 criteria.  
6 The law has four.

7 Would you like to know what they are?

8 DELEGATE HANSON: No, I know what they are.

9 THE CHAIRMAN: Do you have any further questions,  
10 Delegate Hanson?

11 DELEGATE HANSON: No, Mr. Chairman. I believe  
12 this concludes my questions.

13 THE CHAIRMAN: Does any other Delegate have  
14 questions?

15 Delegate Moser.

16 DELEGATE MOSER: I take it 8.02 and 8.02(1)  
17 and 8.02(2) all look to the General Assembly acting  
18 by general law, that is, by law which is uniform. I think  
19 that is very clear, and it will not have county-by-county  
20 variations; is that correct? When you say "law," you  
21 really mean general law?





1 DELEGATE CASE: That is a pretty broad question.  
2 I will have to take it question by question.

3 THE CHAIRMAN: The Chair was about to observe  
4 that your last statement would hardly seem correct. It  
5 would not seem that it is clear they can act only on the  
6 general law. The last sentence would seem to be  
7 exactly to the contrary.

8 DELEGATE MOSER: I meant to refer only to 8.02(1)  
9 and (2). I am not at all referring to 8.01.

10 THE CHAIRMAN: I am sorry. State your question  
11 again.

12 DELEGATE MOSER: The question is, isn't it true,  
13 I think the answer is obviously yes, but it may not be;  
14 isn't it true that you wish to require uniformity in all  
15 three of these sections and that would preclude there  
16 being county-bo-county variations with respect to these  
17 sections?

18 DELEGATE CASE: In section 8.02, we find that  
19 assessments with respect to any tax shall be made pursuant  
20 to uniform rules and pursuant to such classifications of  
21 property, taxpayers, and events as may be determined by law.



1           Now, in that case, I don't think your hypothesis  
2 is correct. This does not merely refer to taxes imposed by  
3 the State, but, indeed, it is probably more critically  
4 applicable to taxes imposed locally, so that the word  
5 "law" there means any law, both public general law as we  
6 know it today, or public local law, because it would be a  
7 monster, indeed, to permit unequal assessments by local  
8 law. So to this extent, we are not directing our-  
9 selves solely to public general law.

10           Now, when you get to --

11           THE CHAIRMAN: Delegate, if I may interrupt you  
12 there, I don't think you caught the force of Delegate  
13 Moser's question. As I understand, his question was:  
14 Was the intent of section 8.02 that there not be variation  
15 in uniform rules of assessment from county to county?  
16 In other words, if the legislature acts, it must act in  
17 such a way as to make the law applicable throughout the  
18 State?

19           DELEGATE CASE: That is generally true. There  
20 is a strong caveat to that.  
21





1 THE CHAIRMAN: You better state it, then, be-  
2 cause that is his question.

3 DELEGATE CASE: Well, it would be possible,  
4 as I see it, for the State to grant the right to impose  
5 a license tax or sales tax in two different counties by  
6 general law.

7 Now, what this says is that -- or let's take the  
8 real estate tax. What this says is that assessments must  
9 be made in accordance with law. Now, the law which is im-  
10 posing the tax is not the act of the General Assembly.  
11 It is the local political subdivision's law that is imposing  
12 the tax, and to that extent, the assessment would be made  
13 by local law, and the uniformity that is required is a  
14 uniformity in local law.

15 THE CHAIRMAN: Delegate Moser.

16 DELEGATE MOSER: I assume that 8.02 and 8.02-1  
17 and 8.02-2 related to laws passed by the General Assembly.  
18 Am I wrong in that assumption; that is to say, would they  
19 apply -- do these sections also apply to laws which might  
20 be passed by local subdivisions?

21 DELEGATE CASE: It requires uniformity no



1 matter who passes the laws, and this is the way it has to  
2 be to make any sense.

3 THE CHAIRMAN: Delegate Case, I think your  
4 position on this might be clearer if you would elaborate  
5 a little more on the meaning of the word "assessments,"  
6 because I am afraid that many delegates are thinking  
7 of this in terms of an ad valorem assessment for property  
8 tax.

9 DELEGATE CASE: Thank you.

10 The word "assessment" as used in this particular  
11 section is used in its broadest sense. The word "assess-  
12 ment" means in that sense the final act which fixes the  
13 tax base, income taxes are assessed, sales taxes are assessed,  
14 real estate taxes are assessed, State taxes are assessed,  
15 and inheritance taxes are assessed.

16 The assessment procedure, therefore, involves the  
17 full scale of activities which must precede the fixing of  
18 the base, and what we are driving at here is that no matter  
19 where this is done, it has to be done uniformly and fairly.  
20 Absent a provision of this kind, you would have a monster  
21 on your hands.





1 . THE CHAIRMAN: Delegate Moser.

2 DELEGATE MOSER: If, however, the General Assembly  
3 were to pass a law respecting assessments, that law could  
4 not vary from county to county? I take it this is uniform?

5 DELEGATE CASE: That is correct.  
6 I would agree with that.

7 THE CHAIRMAN: Delegate Moser.

8 DELEGATE MOSER: That would apply throughout  
9 section 8.02?

10 DELEGATE CASE: As it would apply to the General  
11 Assembly, yes.

12 THE CHAIRMAN: Delegate Moser.

13 DELEGATE MOSER: As you use the word "political  
14 subdivision," it would mean all sections of local govern-  
15 ment, does it not?

16 DELEGATE CASE: That is correct, Delegate Moser.

17 DELEGATE MOSER: Referring to 8.01(b), then,  
18 this would permit the General Assembly to grant  
19 tax powers to any political subdivision? This would include  
20 municipalities on a piece-meal basis -- that is to say,  
21 they could grant the City of Salisbury the power to



1 tax which would differ from the power that was granted to  
2 Cumberland; is that correct ?

3 DELEGATE CASE: Well, you get into a cross current  
4 of philosophies when you ask a question like that which cut  
5 across both the work that your committee did and the work  
6 that our committee did, and, therefore, to answer your  
7 question, I think both must be explored, because there is  
8 no attempt here on the part of the taxation committee to  
9 usurp part of the frame of reference that has been suggested  
10 to your committee.

11 What the taxation committee sought to do in this  
12 particular section was to make sure that the tax power was  
13 reserved to the General Assembly, and that for the political  
14 subdivisions to get it, it would have to be a granted power.  
15 The words "political subdivisions" were used because at  
16 the time this was written it was not clear how the counties  
17 and municipalities would face one another as far as your  
18 committee was concerned.

19 This was written some time before, and was approved  
20 some time before you were gracious enough to give me the  
21 privilege of coming before your committee and explaining





1       our position.

2               So the end result was that these words, after  
3       your committee had acted, were not changed.

4               I suggest to you that if you are apprehensive  
5       about the fact that our committee has suggested a cleaver  
6       of local laws, then this is not the case.

7               DELEGATE MOSER: I agree completely with what you  
8       say, but this was drafted before our section 7.05 was drafted.  
9       I think that I must ask one additional question, since I  
10      have to put this in the form of a question.

11              Is it not true that 8.01(b) would conflict with  
12      section 7.07 insofar as it might permit the General Assembly  
13      to grant the power to tax to municipalities on a piece-  
14      meal basis, because section 7.07 requires the General  
15      Assembly to act with respect to municipalities by public  
16      general law -- I should say 7.07 and 7.09, to that extent.

17              DELEGATE CASE: You mean the second sentence in  
18      (b)?

19              THE CHAIRMAN: 8.01(b).

20              DELEGATE CASE: And more particularly, the words  
21      "one or more."



1 DELEGATE MOSER: That is correct.

2 DELEGATE CASE: I will have to ask you a question.  
3 Could this be done to one or more political subdivisions by  
4 public general law?

5 DELEGATE MOSER: No.

6 THE CHAIRMAN: Delegate Case.

7 DELEGATE CASE: I was under the impression that  
8 it could.

9 THE CHAIRMAN: Maybe the Chair could clarify that  
10 a little bit by saying at the time of the discussion of  
11 the Local Government Article it was indicated that  
12 by the use of the words "public general law" in these  
13 sections the committee did not intend that the legislature  
14 could act differently as to different municipalities.  
15 The question as to whether the terminology would remain the  
16 same has been left to the Committee on Style.

17 Delegate Moser.

18 DELEGATE MOSER: Delegate Case, if I were to  
19 assure you that the local government provision retained  
20 the power to tax in the General Assembly with respect to  
21 all subdivisions, would your committee be willing to have  
8.01(b) deleted; that is to say, if everything in





1 8.01(b) is covered in Article VII, with the exception of  
2 the right to vary the tax powers of the municipalities?

3 DELEGATE CASE: With all due respect to your  
4 committee, I have been told by some people who have studied  
5 both your committee work and this piece of work that the  
6 words in this are a little better than the ones in yours.  
7 (Laughter.)

8 A very prominent Baltimore attorney suggested  
9 this to me the other day. The Chair will have to rule on  
10 this. I have no authority to state that we would authorize  
11 the deletion.

12 I think the way to get at it is that this repre-  
13 sents the sense of the committee, to pass them both, and  
14 let the conflict, if any, which is in words, be resolved  
15 by the Committee on Style.

16 THE CHAIRMAN: The Chair would comment that the  
17 words in 8.01(b) in the second sentence would appear to be  
18 in conflict with 7.07 and 7.09, I think it is, but I think  
19 the problem could be resolved if it was stated clearly in  
20 the discussion that it was not intended that 8.01(b) be  
21 in conflict with Chapter 700, and that the language of 8.01(b)



1 was to be limited in the way provided in 7.00, and then  
2 leave to the Committee on Style the actual choice of words  
3 to accomplish the purpose.

4 DELEGATE CASE: I will adopt the Chair's state-  
5 ment on that.

6 DELEGATE MOSER: I would, too. And I would  
7 like to comment that I like your language very well, too,  
8 except for the failure to exclude municipalities from the  
9 power to vary the taxes. I think we are now in agreement.

10 DELEGATE CASE: I am sure that we will work it  
11 out.

12 THE CHAIRMAN: So there will not be any misunder-  
13 standing, as the Chair understands the Statement of  
14 Vice Chairman Case of the Committee, it is not intended  
15 by section 8.01(b) to conflict with sections 7.07, 7.08,  
16 and 7.09 heretofore approved by the Committee of the Whole;  
17 but rather that section 8.01(b) is to be deemed limited by  
18 section 7.07, 7.08 and 7.09, and that the Committee on  
19 Style will, by appropriate use of the language of either  
20 section, carry out that purpose.

21 Is that a correct statement?





1 DELEGATE CASE: That is a correct statement.

2 THE CHAIRMAN: Does that satisfy you, Delegate  
3 Moser?

4 DELEGATE MOSER: Yes, Mr. Chairman.

5 THE CHAIRMAN: Delegate Clagett.

6 DELEGATE CLAGETT: Mr. Chairman, I commend  
7 Delegate Case and the Chair for a graceful way of handling  
8 a very important question, but my question, Delegate Case,  
9 goes back to section 8.02 and 8.02-1 and -2. Yesterday  
10 I asked you to give us a definition of what was meant by  
11 classification of events, and I would like to ask you this  
12 question:

13 In Article 43 of the present Constitution, the  
14 legislature may provide that land actively devoted to farm  
15 or agricultural use shall be assessed in a certain way, and  
16 not as a subdivision. Is that the event, within your defi-  
17 nition?

18 DELEGATE CASE: No, sir. As I said last evening,  
19 that would be property.

20 Now, let me carry it a little further, if I may.  
21 if

Suppose --/this is strictly from the basic laws, and  
we hope it will be, and the provision which we now have



1 before us comes forward, then the 19 or so criteria that  
2 are found in regulation 9 would come into play, and some of  
3 these are events, so that you can have under the recommen-  
4 dation that we are making a combination of property and  
5 events.

6 1 THE CHAIRMAN: Delegate Clagett.

7 DELEGATE CLAGETT: Then the words "actively  
8 devoted" would not constitute an event?

9 DELEGATE CASE: Not according to the Court of  
10 Appeals. The court of Appeals said it was an objective  
11 test, what was happening to the land, not what somebody  
12 might be doing or not doing. This was the fight, you see,  
13 in the Court of Appeals, in the Alsop case.

14 The property owner claimed he was entitled  
15 to an objection because an objective examination  
16 of the land indicated that it was being farmed, and that  
17 is all you need.

18 The State, on the other hand, contended that  
19 this fellow, as an event was not a farmer, and therefore  
20 you had to subjectively determine what he was before you  
21 could find that the law implementing Article 43 of the





1 Declaration of Rights was ample. The Court of Appeals  
2 held the former.

3 THE CHAIRMAN: Delegate Clagett.

4 DELEGATE CLAGETT: Well, possibly my understanding  
5 can be clarified if I use an extreme situation. Assuming  
6 for the moment that there exists 100 acres of ground  
7 which has been plowed and planted, and from which crops are  
8 being harvested and all of the agricultural uses that we  
9 normally understand to be such are applicable to that piece  
10 of ground, but it happens to be owned by somebody who is  
11 living in the City of Baltimore or someplace like that,  
12 and is engaged in a profession of some kind, does that  
13 mean, or does this language mean that the relationship of  
14 the owner to the land can be such that it would deny the  
15 classification of that land as agricultural use?

16 DELEGATE CASE: What it means is that the admini-  
17 strative agency which is vested with the power to control  
18 the regulation and ultimately the courts could take that  
19 fact into consideration, along with a great many other  
20 facts, to determine whether or not the farm exemption was  
21 available to that particular land owner.



1           DELEGATE CLAGETT: And in the process of taking  
2 that fact into consideration, could they deny the classi-  
3 fication of that land as agricultural? Is that correct?

4           THE CHAIRMAN: Delegate Case.

5           DELEGATE CASE: They might. I don't know what  
6 the court would hold any more than you do, but if the property  
7 was zoned for heavy industrial use, if the general character  
8 of the neighborhood all around it were built up with a  
9 factory, if the property was in the middle of a very densely  
10 populated area, if the property had been -- if they were  
11 on file in the county clerk's office, a subdivision plat  
12 on the property was already to go, the plat had been subdi-  
13 vided, if the property -- if this land owner that you are  
14 referring to had never had any contact with the property at  
15 all, all of these things would come into play and it  
16 would be the Court's judgment on the sum total of all of  
17 them which would permit a judgment.

18          THE CHAIRMAN: Delegate Clagett.

19          DELEGATE CLAGETT: As I understand it, each  
20 one or any one of those items that you have just listed  
21 could be determinative of the classification or the





1 exclusion from the classification of this particular tract  
2 of ground?

3 THE CHAIRMAN: Delegate Case.

4 DELEGATE CASE: Not determinative, Delegate  
5 Clagett, but one of the things that could be taken into  
6 consideration.

7 You see, we really are dealing here with a some-  
8 what esoteric concept in which there are no answers.  
9 That is what we are trying to drive to. In a negligence  
10 case, either the driver is either negligent or he isn't.  
11 These are absolutes. But in the tax field to have a finding  
12 of fact there are many different facets to it which may be  
13 found, and what I am saying to you is that just like in  
14 the question of fair market value of closely held corporate  
15 shares, there is no one fact which is controlling; at least  
16 that is what we are driving at. No one fact may be con-  
17 trolling.

18 THE CHAIRMAN: Delegate Clagett.

19 DELEGATE CLAGETT: Then do I understand you  
20 correctly that what you are doing here in this effort as  
21 set forth in section 8.02 is to substitute those tests



1 for the tests that the court has determined exist in  
2 Article 43 of the present Constitution, namely, being  
3 actively devoted.

4 DELEGATE CASE: That is correct.

5 THE CHAIRMAN: Delegate Clagett.

6 DELEGATE CLAGETT: And these objective tests  
7 would be determined by whom? By the State Department of  
8 Assessments and Taxation, or by act of the General Assembly.

9 DELEGATE CASE: The objective tests would be  
10 or could be determined by the General Assembly. The  
11 General Assembly could, after determining certain broad  
12 tests, delegate to its administrative agency the power to  
13 write regulations which would fill in the missing areas.  
14 This is the way it is usually done.

15 THE CHAIRMAN: Delegate Clagett.

16 DELEGATE CLAGETT: Then we would be back in the  
17 very situation that I think you described so clearly to us  
18 yesterday, where the department could establish various  
19 objective tests, some 19, I believe you mentioned yester-  
20 day --

21 DELEGATE CASE: Twenty-nine.





1           DELEGATE CLAGETT: Twenty-nine -- well, that  
2 would be more -- and yet the Court of Appeals came along  
3 and said that those 29 were excess if the land itself  
4 were actively employed for the purposes of agriculture.

5           DELEGATE CASE: That is correct. This has been  
6 sort of a long-winded colloquy between us, which I have  
7 enjoyed, but let me say this -- I think what you are  
8 getting to is that: Does the committee recommendation  
9 seek to overrule the Alsop case?

10           And the answer is "yes."

11           THE CHAIRMAN: Delegate Clagett.

12           DELEGATE CLAGETT: I think I understand what  
13 we have got there.

14           DELEGATE CASE: Of course you know the reason for  
15 this. It is not because the committee feels that it is  
16 desirable to overrule or to change a result of the Court  
17 of Appeals, but rather to provide or to make sure as far  
18 as it can be humanly possible to be made sure that specula-  
19 tors and land investors do not get the benefit of a tax law  
20 that is supposed to be designed for the bona fide farmer.

21           THE CHAIRMAN: Delegate Clagett, before you go



1 to another section, may the Chair interrupt just to  
2 button down the last answer of Delegate Case?

3 As the Chairman understands, the overruling of  
4 the Alsop case is intended to be accomplished by the use  
5 of the words in the end of section 8.02 in line 8, "as  
6 prescribed by law."

7 DELEGATE CASE: That is correct.

8 DELEGATE CLAGETT: That means by act of the General  
9 Assembly.

10 Going to section 8.02(1),  
11 first sentence, "The State shall prescribe and administer  
12 uniform rules and methods...", does that mean by Act of the  
13 General Assembly or by rule or regulation of the Department  
14 or Agency of the State?

15 THE CHAIRMAN: Delegate Case.

16 DELEGATE CASE: It means the State acts as the  
17 State, and it has to act, of course, through an administra-  
18 tive agency. This means that the State will assume responsi-  
19 bility for assessment procedures.

20 THE CHAIRMAN: Delegate Clagett.

21 DELEGATE CLAGETT: Would you have any objection





1 to adding the words, after State, "by law"?

2 "The State 'by law' shall prescribe and administer  
3 uniform rules and methods for determining property tax assess-  
4 ments."

5 THE CHAIRMAN: Delegate Case.

6 DELEGATE CASE: I don't think it adds anything,  
7 so I would have to object to it.

8 THE CHAIRMAN: Delegate Clagett.

9 DELEGATE CLAGETT: Would it not add the specificity  
10 of the General Assembly doing this, rather than by some  
11 department or agency or instrumentality of the State?

12 THE CHAIRMAN: Delegate Case.

13 DELEGATE CASE: I don't think so, because ob-  
14 viously the State, if it is going to act, has got to act by  
15 law, and equally as obviously if it is going to act, it is  
16 going to have to act through an administrative agency, so that  
17 it seems to me you are merely stating the obvious.

18 THE CHAIRMAN: Delegate Clagett.

19 DELEGATE CLAGETT: Then what you are telling me  
20 is that the law which permits the agency to act will define  
21 the area or powers of that agency to establish or prescribe



1 rules and methods?

2 THE CHAIRMAN: Delegate Case.

3 DELEGATE CASE: Delegate Clagett, as far as I  
4 know, no administrative agency in this State can act beyond  
5 the powers delegated to it or granted to it by the  
6 General Assembly.

7 THE CHAIRMAN: Delegate Clagett.

8 DELEGATE CLAGETT: I note also that this sentence  
9 that we are dealing with says the State shall prescribe and  
10 administer. Assume for the moment that by law the General  
11 Assembly gave to the counties the power to tax with respect  
12 to property exclusively. Then there would be no prohibi-  
13 tion or requirement upon that county to prescribe and  
14 administer uniform rules and methods, would there?

15 THE CHAIRMAN: Delegate Case.

16 DELEGATE CASE: Delegate Clagett, a fight in  
17 this State has gone on in this State to have centralized  
18 assessments. What this means in effect is that if the  
19 counties want to use the property taxes, as of course they  
20 do, the assessments will be centralized, they will be made  
21 by the State.





1 THE CHAIRMAN: Delegate Clagett --

2 DELEGATE CASE: I want to make this abundantly  
3 clear, that this should not turn over the assessment pro-  
4 cedure to any local political subdivision. Quite to the  
5 contrary.

6 DELEGATE CLAGETT: Could it?

7 DELEGATE CASE: It could not, and should not.

8 THE CHAIRMAN: Delegate Clagett.

9 DELEGATE CLAGETT: Therefore, the words in lines  
10 13 through 15 requiring uniformity would apply with respect  
11 to any political subdivision exercising any assessment  
12 powers, as well as to the State?

13 THE CHAIRMAN: Delegate Case?

14 DELEGATE CASE: Well, section 8.02 as I said  
15 earlier applies to the State.

16 Now, section 8.02-1 -- I am sorry; 8.02  
17 of course applies to any political unit, as we said earlier.  
18 You are correct in that.

19 THE CHAIRMAN: Do you have any further questions,  
20 Delegate Clagett?

21 DELEGATE CLAGETT: Then --



1 DELEGATE CASE: To recapitulate, Delegate Clagett,  
2 what this comes to is simply this: Assessments have to be  
3 uniform, no matter who makes them, in the broad sense, as  
4 I defined that word earlier, but in section 8.02-1 we are  
5 dealing with property tax assessments, as distinguished  
6 from the broader type of assessment in section 8.02.

7 In that instance, the State is/assessing authority  
8 -- or will be.

9 THE CHAIRMAN: Delegate Clagett.

10 DELEGATE CLAGETT: I think that is all.

11 THE CHAIRMAN: Delegate Case, may the Chair pur-  
12 sue that last one just one step further?

13 You have indicated that the phrase "property tax  
14 assessments" in lines 14, 15, and 16 in section 8.02-1  
15 is not the use of the term "assessments in the broad sense  
16 in which it was used in section 8.02.

17 Is it also true that it is narrower in that you are  
18 there talking about ad valorem valuation for the  
19 purposes of property tax assessment, rather than the assess-  
20 ment of the property taxes in determining the amount of the  
21 tax?





1           DELEGATE CASE: The word "assessment" as  
2 used in the property tax field means as you have suggested.  
3 I havenever heard the word "assessment" in the property  
4 tax field to mean the application of the rate to the base.

5           THE CHAIRMAN: So that in this section we are  
6 using the term in the sense of ad valorem valuation for  
7 purposes of property tax.

8           DELEGATE CASE: This is correct. It is not the  
9 question of being broader or narrower than the word in  
10 section 8.02. It is just a different thing.

11          THE CHAIRMAN: All right, Delegate Clagett,  
12 do you have a further question?

13          DELEGATE CLAGETT: One further question.

14          Delegate Case, under section 8.02-2 there, again,  
15 exemptions apply only to the State, and with respect to pro-  
16 perty taxes, assuming that they were turned over to the coun-  
17 ties, could the county exclude any exemptions or abolish  
18 any exemptions whatsoever?

19          DELEGATE CASE: As far as county tax purposes  
20 are concerned, yes, so long as they were uniform.

21          DELEGATE CLAGETT: Therefore, it could exclude



1 a farm devoted to agricultural use from any exemption?

2 DELEGATE CASE: You mean it could completely ex-  
3 empt it, as distinguished from giving it a different type of  
4 assessment, because we are talking about two different  
5 things.

6 THE CHAIRMAN: Delegate Clagett.

7 DELEGATE CLAGETT: Let us take it the other way  
8 around. They could refuse to give it any special assess-  
9 ment for exemption classification.

10 THE CHAIRMAN: Delegate Case.

11 DELEGATE CASE: No, they could not.

12 THE CHAIRMAN: I am afraid, Delegate  
13 Clagett, by the use of the word "exemption" in connection  
14 with that sentence it may have confused them.  
15 You said classification or exemption. Would you separate  
16 the two?

17 DELEGATE CLAGETT: Let us take them in order.

18 Could it exclude the land devoted to agricul-  
19 tural use from classification?

20 DELEGATE CASE: In my judgment, it could not.

21 DELEGATE CLAGETT: Now, then --



1 DELEGATE CASE: Section 8.02 would control it.

2 THE CHAIRMAN: Delegate Clagett.

3 DELEGATE CLAGETT: With respect to 8.02-2,  
4 even though it may classify, could it fail to give any  
5 special -- could it since the restriction is upon the State  
6 only to provide for exemptions, fail to exempt either  
7 in part or in whole agricultural land after it has been  
8 classified?

9 DELEGATE CASE: Could it fail to exempt? I think  
10 you are confused, Delegate Clagett.

11 The farm tax problem which is dealt with in  
12 section 8.02 is a part of the assessment procedure. It has  
13 nothing at all to do with exemptions.

14 THE CHAIRMAN: Delegate Clagett.

15 DELEGATE CLAGETT: That is exactly why I am  
16 asking questions, because I don't want to be confused.  
17 I want to understand what we are doing here. The classifi-  
18 cation for the purposes of assessment merely gives an area  
19 where an exemption can be granted by the State if it sees  
20 fit to do so, that is, an exemption from what would other-  
21 wise be a different rate of tax.





1 THE CHAIRMAN: Delegate Case.

2 DELEGATE CASE: I prefer the words "different  
3 treatment," rather than exemption, because it is not an  
4 exemption.

5 THE CHAIRMAN: Delegate Clagett.

6 DELEGATE CLAGETT: Then going back down to  
7 8.02-2, do I understand the word "exemption" means  
8 different treatment?

9 DELEGATE CASE: Exemption means -- it is a  
10 different treatment, but it is a complete absence of treat-  
11 ment, not a different treatment -- an absence of treatment,  
12 not a different treatment.

13 THE CHAIRMAN: Delegate Clagett.

14 DELEGATE CLAGETT: It would be the absolute,  
15 rather than variation?

16 THE CHAIRMAN: Delegate Case.

17 DELEGATE CASE: It means that it is just not  
18 subject to tax. It is not in the tax base.

19 Now, the farm property assessed for farming is in  
20 the tax base, but it is given a different treatment than  
21 other real estate.



1 THE CHAIRMAN: Delegate Clagett.

2 DELEGATE CLAGETT: Then with respect to the  
3 counties acting with respect to farmland, it could exempt  
4 or it could not exempt it from tax? Totally exempt?

5 THE CHAIRMAN: Delegate Case.

6 DELEGATE CASE: It could probably exempt farmland  
7 totally from tax if this was what they wanted to do, yes.  
8 Just like they could exempt any other type of property  
9 which is properly classified.

10 They could exempt tools and machinery, they  
11 could exempt manufacturer's inventory, they could exempt  
12 inventory held by merchants, so long as the classification  
13 is valid. Then it can be treated in a different manner.

14 THE CHAIRMAN: Delegate Clagett.

15 DELEGATE CLAGETT: And, of course, the same thing  
16 specifically under 8.02-2 could be done by the State?

17 DELEGATECASE: That is true.

18 THE CHAIRMAN: Delegate Clagett?

19 DELEGATE CLAGETT: All right.

20 DELEGATE CHABOT: Mr. Chairman.

21 THE CHAIRMAN: Delegate Chabot.





1           DELEGATE CHABOT: Delegate Case, before we had  
2 described a number of factual elements that I believe you  
3 had indicated might be taken into account in determining  
4 the propriety of applying a farm assessment classification  
5 to any particular property.

6           Would this language permit the General Assembly  
7 to state by law that one particular element or one combi-  
8 nation of elements would be determinative?

9           THE CHAIRMAN: Delegate Case.

10          DELEGATE CASE: It gives the General Assembly  
11 the broadest type of latitude to make the judgment, Delegate  
12 Chabot.

13          THE CHAIRMAN: Delegate Chabot.

14          DELEGATE CHABOT: Would it permit the General  
15 Assembly to make this judgment -- well, some of the elements  
16 were elements that related to the nature of the taxpayer  
17 as well as the property. Would it permit the General  
18 Assembly to make these judgments with relation to combi-  
19 nations of events and the property so that the General  
20 Assembly might be permitted to enact a law under  
21 which, if the property that had received this special



1 treatment were sold, that there would be some special tax  
2 which relatesto the amount of tax benefit that the property  
3 had enjoyed before?

4 THE CHAIRMAN: Delegate Case.

5 DELEGATE CASE: There is no doubt about that in  
6 my mind.

7 THE CHAIRMAN: Delegate Chabot.

8 DELEGATE CHABOT: Well, would this power of  
9 the General Assembly be just as broad if the entire last  
10 clause on line 7 and 8 were deleted?

11 THE CHAIRMAN: Delegate Case.

12 DELEGATE CASE: I think I should have to say  
13 that the answer to that is yes, in my judgment it would be  
14 just as broad, but if it wanted to act positively, as a  
15 matter of fact it would be even broader because if the  
16 last sentence were deleted, then while classification is  
17 mandated in the section, classification, some classification  
18 for farm use is not mandated, so that the General Assembly,  
19 if the last sentence were deleted, could completely  
20 ignore the farm, completely ignore it.

21 THE CHAIRMAN: Delegate Chabot.



1           DELEGATE CHABOT: Well, let us assume for the  
2 moment that this last clause is not deleted, it is in there  
3 and you have got a General Assembly which is determined, as  
4 you put it, to ignore the farmer. Could the General As-  
5 sembly simply not make such a classification?

6           And of course, your next question is, if they  
7 don't make it, how do you make them make it?

8           THE CHAIRMAN: Delegate Case.

9           DELEGATE CASE: The answer to that is simply  
10 this: This section mandates the General Assembly to act.  
11 Now, we passed, must have passed 40 or 50 provisions here  
12 in this Convention already that mandate the General Assembly  
13 to act in some way. If they don't act, I am a little befog-  
14 ged myself to say exactly how you make them act, but at least  
15 they are mandated in the Constitution, and I think they will  
16 act.

17           I might say this to you, having dealt with this  
18 problem with the people who are intimately involved for the  
19 last four years, I am pretty sure the General Assembly  
20 will act.

21           THE CHAIRMAN: Delegate Chabot.





1 DELEGATE CHABOT: Aren't you as sure that the  
2 General Assembly would act even if the clause were  
3 not in there?

4 THE CHAIRMAN: Delegate Case.

5 DELEGATE CASE: I am sure, but I am afraid  
6 some of our friends whose support we need are not as sure.

7 THE CHAIRMAN: Delegate Chabot --

8 DELEGATE CASE: At least that is what they say.

9 THE CHAIRMAN: Delegate Chabot.

10 DELEGATE CHABOT: Let me go back to the word  
11 "assessment" as it appears in line 3.

12 THE CHAIRMAN: In what section?

13 DELEGATE CHABOT: Section 8.02.

14 As I understand your answer to the earlier  
15 question, that word there is used to mean all the  
16 things involved in fixing the tax base.

17 THE CHAIRMAN: Delegate Case.

18 DELEGATE CASE: Delegate Chabot, you are a tax  
19 collector. I don't think of all people in this Assembly  
20 I have to explain to you the technical meaning of that  
21 word. I would accept your definition for it as a tax



1 collector.

2 THE CHAIRMAN: Delegate Chabot.

3 DELEGATE CHABOT: I just wanted to make sure  
4 that you weren't limiting it simply to fix the tax base  
5 in those areas where it is appropriate, where it has  
6 been used to have a different sort of meaning, that it has  
7 whatever technical meaning it normally has.

8 THE CHAIRMAN: Delegate Case.

9 DELEGATE CASE: It has the meaning you and I sub-  
10 scribe to.

11 THE CHAIRMAN: Delegate Chabot.

12 DELEGATE CHABOT: With regard to the  
13 entire section 8.02, in what way does this either empower  
14 or restrict the General Assembly, other than the same  
15 way that the equal protection clause may limit the General  
16 Assembly?

17 DELEGATE CASE: Very simply, let us get back to  
18 classification again. There is nothing in the equal  
19 protection law that would require classification. It merely  
20 says, in effect, that if classes are made, they have  
21 to be equal.





1           The point of it is that this mandate is classi-  
2   fication. In other words, the equal protection clause is  
3   a protection, it is sort of a negative thing. It says if  
4   you do something that is not fair and equal, then you can  
5   be brought to account.

6           This section, carrying forward the existing  
7   provisions of Article XV, really mandates classification.

8           THE CHAIRMAN: Delegate Chabot.

9           DELEGATE CHABOT: Do you have any doubt that the  
10   General Assembly in every tax that it will pose will  
11   create classes, as it has in fact created classes?

12          THE CHAIRMAN: Delegate Case.

13          DELEGATE CASE: I can visualize a certain type  
14   of tax in which classes might not be the order of the day  
15   because there would be no reason for it, but in most of the  
16   cases that we know of now, I would certainly say that  
17   this would be true, there would be classes.

18          THE CHAIRMAN: Delegate Chabot.

19          DELEGATE CHABOT: Would the effect of this pro-  
20   vision be that in such a tax as you have indicated you  
21   could visualize that the General Assembly might be required



1 to create classes, even though it might not be appro-  
2 priate?

3 DELEGATECASE: A class of one.

4 DELEGATE SYBERT: Mr. Chairman.

5 THE CHAIRMAN: Before proceeding with the  
6 questioning, the Chair recognizes Delegate Ulrich on a  
7 matter of personal privilege.

8 DELEGATE ULRICH: Thank you, Mr. Chairman.

9 On behalf of myself, Delegate Anderson, and  
10 Delegate Neilson, we would like to welcome to the Conven-  
11 tion 35 students from Andover High School, with their  
12 teacher, Miss Ruth, and their chaperons, Mrs. Chayet and  
13 Mrs. Griffith.

14 Thank you. (Applause.)

15 THE CHAIRMAN: The Chair recognizes Delegate  
16 Winslow on a matter of personal privilege.

17 DELEGATE WINSLOW: I should like for the delegates  
18 to the Convention to join me in welcoming to the gallery  
19 33 students from the Boys Latin School, together with their  
20 teacher, Mr. Rosen; and also, secondly, a group of 37  
21 students from the Ridgely Junior High School, together



1 with their teachers, Mr. Bressler, Mr. Gil Strange, and  
2 Miss Sharon Kozlowski. (Applause.)

3 THE CHAIRMAN: Delegate Marion.

4 DELEGATE MARION: Delegate Case, if I can pursue  
5 a little bit further the language of section 8.02, does that  
6 language, in addition to requiring a separate classifi-  
7 cation of property devoted to agricultural use require  
8 that property in that class be treated differently from the  
9 property placed in the other classifications and devoted to  
10 other uses?

11 THE CHAIRMAN: Delegate Case.

12 DELEGATE CASE: I think it is implicit in the  
13 requirement that classification be established for agri-  
14 cultural use that it is going to be treated differently.  
15 I think that is implicit.

16 THE CHAIRMAN: Delegate Marion.

17 DELEGATE MARION: Could the legislature treat  
18 such property more harshly, as well as more leniently  
19 than property devoted to other uses.

20 DELEGATE CASE: No doubt about it.

21 DELEGATE MARION: Is it correct that prior to





1 1960 when amendment was made to the present Constitution  
2 that there was no language in the constitution of Maryland  
3 which spoke to the question of land devoted to farm or agri-  
4 cultural use?

5 THE CHAIRMAN: Delegate Case.

6 DELEGATE CASE: That is correct.

7 THE CHAIRMAN: Delegate Marion.

8 DELEGATE MARION: Is it further correct that  
9 that Constitutional amendment was adopted because of the  
10 decision of the Court of Appeals in the Gales case in which  
11 it construed the then language of Article XV of the Declara-  
12 tion of Rights of the Constitution?

13 DELEGATE CASE: That is correct.

14 THE CHAIRMAN: Delegate Marion.

15 DELEGATE MARION: So that prior to 1960 there was  
16 language in the Constitution which was held by the Court  
17 of Appeals to prohibit or to make unconstitutional the  
18 legislature's enactment of a farm assessment law?

19 THE CHAIRMAN: Delegate Case.

20 DELEGATE CASE: Yes, this is true.

21 THE CHAIRMAN: Delegate Marion.



1           DELEGATE MARION: Following up on those ques-  
2 tions, is there anything in the provisions which your  
3 committee has recommended, and I guess specifically any-  
4 thing in the language of section 8.02 in the first four  
5 lines which could be construed to have the same effect as  
6 Article XV as it existed prior to 1960, so that if those  
7 four lines were to stand alone, could it not be said, or would  
8 you agree that the same Constitutional problem is not presented  
9 in the draft language?

10           THE CHAIRMAN: Delegate Case.

11           DELEGATE CASE: I would agree.

12           THE CHAIRMAN: The Chair recognizes  
13 Delegate Willis on a point of personal privilege.

14           DELEGATE WILLIS: Mr. Chairman and Members  
15 of the Committee of the Whole, I would appreciate your  
16 joining with me to welcome two friends in the  
17 balcony, Mrs. Jane Gentand Miss Mary E. W. Risteau, who  
18 are members of the educational staff of Harford County.

19           I would like to direct your attention to the  
20 first lady ever elected to the Maryland General Assembly.  
21 She served a two-year term in the House of Delegates in





1 1922, was elected to a three-year term in 1924, and to  
2 four year terms in 1931 and 1951.

3 She served one term in the Maryland State Senate,  
4 where she was the first woman ever elected to that body,  
5 in 1935.

6 Her picture hangs on the wall of the House  
7 Chamber.

8 It is with a great deal of pleasure that I wel-  
9 come to this Convention Miss Mary E. W. Risteau, who is  
10 in the balcony behind the speaker. (Applause.)

11 THE CHAIRMAN: The Chair recognizes Delegate  
12 Cardin on a point of personal privilege.

13 DELEGATE CARDIN: Thank you, Mr. President.

14 Mr. President and Members of the Convention, it  
15 is my pleasure to announce the presence in the rear gallery  
16 of 15 members of the Covenant Guild, Inc. of Baltimore and  
17 their President, Mrs. Melvin M. Katz.

18 I am delighted that they took the interest to  
19 come down and observe our deliberations here. Thank you  
20 ever so much for coming. (Applause.)

21 THE CHAIRMAN: Delegate Dorsey.



1           DELEGATE DORSEY: I would just like to add to  
2 what my good friend Delegate Willis has said about Miss  
3 Mary Risteau. I had the pleasure of serving in the  
4 General Assembly with her many years ago, and I know no one  
5 in public life in Maryland who has contributed more to  
6 the good government of this State than Miss Mary Risteau.  
7 (Applause.)

8           THE CHAIRMAN: Delegate Pullen.

9           DELEGATE PULLEN: Mr. Chairman, I should like  
10 especially to pay tribute to Miss Risteau, too. One million  
11 children in the State of Maryland owe a great deal of  
12 respect to this educator. Truly her life has been a gra-  
13 cious benediction upon them. (Applause.)

14          THE CHAIRMAN: The Chair recognizes Delegate  
15 Sybert.

16          DELEGATE SYBERT: Mr. Chairman, I should like  
17 to ask a few clarifying questions of Delegate Case.

18                Delegate Case, with reference to section 8.02,  
19 is it your understanding of the wording in section 8.02  
20 that that will mandate the legislature to set up more than  
21 one class of assessible property?



1 DELEGATE CASE: That is correct.

2 DELEGATE SYBERT: Wouldn't it be clearer if the  
3 word "may" were changed to "shall"?

4 THE CHAIRMAN: You mean in line 6?

5 DELEGATE SYBERT: Yes, so as actually to mandate  
6 the legislature to set up more than one classification.

7 DELEGATE CASE: Well, the word "may" probably  
8 was suggested by the word surgeons as relating to the word  
9 property, taxpayers, and events, but if it makes it clearer  
10 to you, I would have no objection to it.

11 THE CHAIRMAN: Delegate Sybert.

12 DELEGATE SYBERT: Can we understand that the  
13 word "may" in line 6 is being changed or has been changed to  
14 "shall"?

15 DELEGATE CASE: If Delegate Penniman and the  
16 others in the Style Committee feel it is necessary to make  
17 this clear, I would not have any objection to that.

18 THE CHAIRMAN: Will Delegate Penniman please note  
19 that section 8.02 is intended to impose upon the  
20 General Assembly the obligation to make classifications  
21 of property for the purposes therein set forth, and the





1 committee should determine whether the word "may" in line  
2 6 should remain "may" or whether it should be "shall."

3 DELEGATE SYBERT: With the section being under-  
4 stood in that manner, it would mandate the legislature  
5 to make more than one classification.

6 DELEGATE CASE: That is correct.

7 THE CHAIRMAN: Delegate Sybert.

8 DELEGATE SYBERT: Now, getting down to the last  
9 three lines in section 8.02, that wording would -- the whole  
10 section would permit the legislature to delegate to the State  
11 Department of Taxes and Assessments the job of setting up  
12 these classifications and establishing the rules which will  
13 govern in those classifications. That is correct, is it not?

14 THE CHAIRMAN: Delegate Case.

15 DELEGATE CASE: Subject to criteria, Delegate  
16 Sybert, which must in every tax statute be stated. You  
17 can't have a law which merely says in effect the General  
18 Assembly hereby delegates to the State Department of Tax-  
19 ation the right to do things. There has to be criteria  
20 in which the administrative agency is to act. After these  
21 criteria are established, then the administrative agency



1 can, as I said earlier, fill in the details.

2 DELEGATE SYBERT: We understand that there are  
3 standards governing such rules and regulations must be  
4 provided in the enabling statute. Wouldn't this permit a  
5 situation like this to arise: We all know that  
6 developers of land must look ahead for properties to develop  
7 after the property or development on which they are working  
8 has been fully developed and maybe sold off.

9 Sometimes developers must look years ahead  
10 in purchasing property to develop so that they can stay  
11 in business. Couldn't a situation arise in which a developer  
12 in order to keep himself in business buys a piece of pro-  
13 perty that he may not want to develop for two or three or  
14 five or 20 years. Even though he permits the farmer to  
15 remain on the land actually farming it, everyone in the  
16 neighborhood getting the benefit of the open spaces, could-  
17 not the State Department of Assessments and Taxation  
18 provide by rule or by regulation that as soon as the  
19 farmer who may have farmed the place for 50 or 25 years  
20 or less sells it to someone who is in the developing  
21 business, that it must be assessed as subdivision property,





1 even though in fact it will continue to be actually farmed  
2 and devoted to bona fide agricultural uses until the  
3 developer actually, five, ten or 25 years later, devotes  
4 it to subdivision purposes?

5 Couldn't the State Department of Taxation  
6 provide such a rule?

7 THE CHAIRMAN: Delegate Case.

8 DELEGATE CASE: Judge, would you mind restating  
9 that question? (Laughter.)

10 THE CHAIRMAN: Delegate Sybert.

11 DELEGATE SYBERT: Let me ask first whether  
12 the witness retains the factual situation which predicated  
13 this.

14 DELEGATE CASE: I can't remember whther that fellow  
15 was there for 25 or 50 years. That is the part that got  
16 me stumped.

17 THE CHAIRMAN: Delegate Sybert.

18 DELEGATE SYBERT: I submit, Mr. Chairman, that  
19 doesn't make any difference, and that is my point. If the  
20 developer sure enough buys the property in order sometime  
21 in the future to develop it so that he can stay in business,



1 and we will suppose a case where he doesn't want to use it  
2 for 10 years, and he either devotes it to a continuing  
3 agricultural use or maybe permits the farmer who sold it  
4 to him with or without rent to remain on the place and  
5 devote it to bona fide farm or agricultural use, could  
6 the regulations adopted under this section by the State  
7 Department of Assessments and Taxation make the transfer  
8 of the property to a developer who is in the building  
9 business, regardless of the fact that he continues to use  
10 it or someone does, for farm use, could the assessment be  
11 then and there increased under rules and regulations set  
12 up under 8.02?

13 DELEGATE CASE: I think that could be done even  
14 without this section.

15 THE CHAIRMAN: Delegate Sybert.

16 DELEGATE SYBERT: You mean that if a farmer  
17 continues to use his place and doesn't sell it, that the  
18 assessment could be increased?

19 THE CHAIRMAN: Delegate Case.

20 DELEGATE CASE: I thought your question was  
21 when the assignment was made by the farmer to the developer,



1 could the assessment be increased, and my answer is that  
2 it could be.

3 THE CHAIRMAN: Delegate Sybert.

4 DELEGATE SYBERT: In spite of the fact that  
5 the land would continue maybe five or ten years more to be  
6 used for bona fide farm use?

7 THE CHAIRMAN: Delegate Case.

8 DELEGATE CASE: I didn't understand the developer  
9 would continue the farming.

10 THE CHAIRMAN: Delegate Sybert.

11 DELEGATE SYBERT: I postulated that.

12 THE CHAIRMAN: Delegate Case.

13 DELEGATE CASE: Then the question would be  
14 whether or not the regulations were reasonable or not.  
15 I think that each case would have to stand on its own facts.  
16 There is no black and white judgment that can be drawn  
17 when you have got the General Assembly, either on its own or  
18 delegated to an administrative agency, with a set of cri-  
19 teria to be established as to whether a fact exists. You  
20 are going to have cases falling on one side of the line or  
21 the other side of the line, depending upon the finding of





1 fact of the tribunal. I can't answer you categorically  
2 what a court can decide in any given situation. These  
3 fact cases, like evaluation cases, for example, in the  
4 tax field, find many different answers which the  
5 courts provide, and sometimes, indeed, you must admit  
6 that those of us who deal with these subjects know they  
7 seem to be inconsistent. But this is true in all fact cases.

8 THE CHAIRMAN: Delegate Sybert.

9 DELEGATE SYBERT: Well, Delegate Case, just  
10 eight years ago a constitutional amendment was put up to the  
11 people because our Declaration of Rights prior to that  
12 did not permit different land taxes, the way I understand it.

13 DELEGATE CASE: That is correct.

14 DELEGATE SYBERT: When the 1959 Constitutional  
15 amendment was submitted to the people just eight years ago  
16 they voted for it approximately three to one, to permit  
17 different or differing classifications of land.

18 DELEGATE CASE: That is correct.

19 DELEGATE SYBERT: After that the Alsop case,  
20 the one test case laid down in that constitutional amendment,  
21 said that is bona fide. Possibly the words were that the



1 land being actively devoted to farm or agricultural use  
2 was the only criteria that the assessing authority could  
3 apply.

4 DELEGATE CASE: That is correct.

5 THE CHAIRMAN: Delegate Sybert.

6 DELEGATE SYBERT: For what reason then does the  
7 committee recommend scrapping the action of the people  
8 eight years ago in permitting or requiring assessment as  
9 farmland if it is actively devoted to farm use? What is  
10 the theory?

11 THE CHAIRMAN: Delegate Case.

12 DELEGATE CASE: We prefer the words "gently  
13 modifying," rather than "scrapping" the words of the people.

14 The reason for it, as I have suggested before,  
15 is that as the law now stands, the law being the Constitu-  
16 tional amendment of Article XV and XLIII of the Declaration  
17 of Rights as interpreted by the Alsop case permits people,  
18 namely real estate speculators for whom this particular  
19 provision was never designed to reap tremendous benefits.

20 We feel, the committee felt that this was  
21 wrong. We felt that it was wrong for a number of reasons.





1           First and most importantly, the proponent of  
2 the Constitutional amendment himself suggested to us that  
3 he never intended the result which came out of the Alsop  
4 case.

5           Secondly, if you read Article XLIII you will see  
6 that it does use the word "may," and also you will conclude  
7 with me that although I believe you sat on that case, that  
8 the Court might have reached a different result.

9           Certainly a lot of people thought it was going  
10 to reach a different result.

11           Thirdly, it is my considered judgment that  
12 the people in voting did not intend to confer benefits  
13 upon land speculators through the guise of a farm tax assess-  
14 ment. All of the literature at that time, including the  
15 editorials in the Baltimore Sun and the News Post -- I  
16 didn't read the ones in the Washington papers -- were di-  
17 rected toward helping the legitimate farmer, the man who  
18 makes his living by working the land.

19           Now, this is what we are trying to do, and by  
20 the same token, we are trying to give the administrative  
21 officers of the State the tools to prevent the land



1 speculator from making a bonanza in an area in which he  
2 shouldn't participate.

3 DELEGATE SYBERT: Won't it also have the effect  
4 of hamstringing the legitimate developers who, to stay in  
5 business, must look forward and purchase available land,  
6 often years before the time comes for them to develop it  
7 in the normal course of their business? Won't it also  
8 have the effect of --

9 DELEGATE CASE: I could answer that very quickly,  
10 Delegate Sybert. I don't know whether it would hamstring  
11 them or not, but I couldn't care less. They are able to  
12 take care of themselves. We are not worrying about de-  
13 velopers or people who buy large chunks of land and put it  
14 aside to make a future profit. What we are talking about  
15 is a bona fide, legitimate farmer.

16 DELEGATE SYBERT: Won't this change also have the  
17 effect of making developers develop sooner than they ordi-  
18 narily would, and thereby destroy by that much time the  
19 open spaces that everyone in the neighborhood has thereto-  
20 fore enjoyed?

21 DELEGATE CASE: No. What it will have an effect



1 on, if it has any effect, it will preclude the developers  
2 from going out and snapping up the land at the present  
3 time. They will let the farmer continue to use it, and when  
4 the farmer can continue to use it at the use type assess-  
5 ment, then the desired result, which the committee seeks  
6 to accomplish, has been achieved.

7 I don't see why we should encourage a developer  
8 to go and buy farmland.

9 THE CHAIRMAN: Are there any further questions  
10 to the committee chairman?

11 Delegate Lloyd Taylor.

12 DELEGATE L. TAYLOR: You have given special  
13 consideration to the agricultural uses of the land. I  
14 wonder if your committee has given any consideration  
15 to some of the problems in urban areas; for instance, you  
16 have many real estate companies buying lots of apartment  
17 houses, say in the cities and large urban areas, and after  
18 buying this large area of land, many times they let the  
19 property deteriorate, and in this way they avoid paying  
20 high taxes. And, of course, in Baltimore City where I  
21 live, say in the second district, we have assessment values





1 dropping, say when the area changes from a so-called "nice  
2 neighborhood" to a deteriorating neighborhood, and urban  
3 renewal comes in, and suddenly the price of the land goes  
4 up, the Department of Assessments and Taxation raises the  
5 assessments, and, of course, a developer comes in and  
6 reaps a high profit..

7 Of course, the whole system seems to be actually  
8 exploiting the -- well --

9 THE CHAIRMAN: Delegate Taylor, are you getting  
10 ready to ask a question?

11 DELEGATE L. TAYLOR: Yes.

12 I wonder, can you exempt a property owner who  
13 is trying to obtain his properties from paying a tax im-  
14 mediately after he has made repairs? Could the General  
15 Assembly pass a special act or some type of exemption to  
16 exempt a property owner if he made certain repairs -- in  
17 other words, in the City we have this problem. We find that  
18 many property owners would like to keep up their  
19 property, but -- well, when they make these repairs,  
20 quite often they are taxed, and of course, this really  
21 works against them.

THE CHAIRMAN: Delegate Taylor, would you permit



1 the Chair to phrase the question I think you are trying to  
2 phrase?

3 DELEGATE TAYLOR: Yes.

4 THE CHAIRMAN: Delegate Case, I think Delegate  
5 Taylor is inquiring whether under section 8.02 a classifi-  
6 cation would be permitted which would allow a lower assess-  
7 ment, or at least not an increased assessment in the case  
8 of a property owner who improved his property pursuant to  
9 some plan of urban renewal?

10 Is that essentially what you are asking, Delegate  
11 Taylor?

12 DELEGATE L. TAYLOR: Yes.

13 THE CHAIRMAN: Can you answer that?

14 DELEGATE CASE: This would depend upon the classi-  
15 fication, if that were the classification which you have  
16 suggested, if that classification were reasonable.

17 If the court found it to be reasonable, then it  
18 would be valid. If the court found it to be unreasonable,  
19 then it would be unconstitutional.

20 THE CHAIRMAN: Delegate Lloyd Taylor.

21 DELEGATE L. TAYLOR: My main question, did you





1 give any consideration for the property of the cities?

2 THE CHAIRMAN: I think what Delegate Taylor would  
3 like to know is whehter your committee gave any considera-  
4 tion to the problem in urban areas, where the policy of the  
5 city is to encourage home owners to improve their property,  
6 and yet the improvement of the property results in higher  
7 taxes. Did you give any consideration?

8 DELEGATE CASE: We felt this was a matter to be  
9 properly directed to the legislature, and not to this draft.  
10 I will say to you that the draft is flexible enough so that  
11 if the legislature desires to deal with this problem, it  
12 has ample authority to do so.

13 THE CHAIRMAN: Delegate Taylor.

14 DELEGATE L. TAYLOR: You will find in the State  
15 of Maryland I imagine three-fourths of the land populated  
16 by the people is land located in urban areas, and, of course,  
17 it seems that the problem of land taxes is mainly situated  
18 in urban areas. It seems as though you would give more con-  
19 sideration to the problem in the cities, since you gave quite  
20 a bit of consideration to the problems of the farm areas.  
21 This is my idea.



1 DELEGATE CASE: I am glad to have your suggestion.

2 DELEGATE L. TAYLOR: Do you think the General  
3 Assembly, under this section, do you think they would do  
4 anything to meet some of these problems?

5 DELEGATE CASE: I would hope so.

6 THE CHAIRMAN: Any further questions, Delegate  
7 Taylor?

8 DELEGATE L. TAYLOR: So many times when documents  
9 like this are written they really do not meet the needs of  
10 the people. We have a population of 3 million people, and  
11 1 million people in Baltimore City, and I know that in  
12 many areas in Baltimore City the assessment rates are  
13 dropping and the property is deteriorating, and we can't  
14 get enough revenue. We spent about 2 hours directing  
15 our statements and comment about the agricultural uses of  
16 land, and, of course I don't think that the average voter  
17 in Baltimore City -- he may not know anything about taxes  
18 or assessments, but he feels the effect of this type of  
19 constitutional provision.

20 Can you do anything to help this type of taxpayer  
21 or voter?



1           DELEGATE CASE: As I said, Delegate Taylor, the  
2 provision here is drafted in broad and meaningful terms  
3 and gives the legislature all the power that it needs to  
4 deal with these problems, but how the legislature will  
5 deal with them or what specific answers can be given to the  
6 problems that you have suggested is, in my judgment, a  
7 matter of legislative concern, and not constitutional di-  
8 mension.

9           THE CHAIRMAN: Any further questions, Delegate  
10 Taylor?

11           DELEGATE L. TAYLOR: You say agricultural uses  
12 of land is a matter of constitutional dimension --

13           DELEGATE CASE: For the reason I suggested earlier,  
14 because it had a long and somewhat interesting history  
15 in this State, and it had been presented to the people in  
16 1960.

17           This is the reason it was included in this par-  
18 ticular document.

19           THE CHAIRMAN: Delegate Taylor.

20           DELEGATE L. TAYLOR: Don't you agree that this  
21 Constitution was written about 100 years ago, and the





1 country was mostly rural and farm country, as was the State  
2 of Maryland, and now we move into another era, and of course  
3 the document should reflect the future, and not the past.

4 DELEGATE CASE: I am afraid you have misunder-  
5 stood what I have said. The provision that you directed  
6 my attention to was written over seven years ago, not 100.  
7 This is a very current-life subject, and this is why it  
8 was included in the document, because it was so current,  
9 was so live, and had been submitted to the people in such a  
10 recent past.

11 THE CHAIRMAN: Are there any further questions,  
12 Delegate Taylor?

13 DELEGATE L. TAYLOR: How much land do we have  
14 in agricultural use in the State of Maryland, compared to  
15 the urban areas?

16 DELEGATE CASE: The statistics are available,  
17 but not in my head. I can supply you with them if you  
18 would like to have them, and I would be happy to do so, Dele-  
19 gate Taylor.

20 THE CHAIRMAN: Delegate Kathleen Robie.

21 DELEGATE ROBIE: Mr. Chairman, I would like to



1 ask Mr. Case just what provisions, or how do you see these  
2 laws pertaining to the farmers that are in some of these  
3 areas not too far away from the cities, but still close enough  
4 that they can no longer get help to do their farming?

5 Down in Chalmers County, now, there are many people in  
6 this category, and my husband and I happen to be one, where  
7 we have had a farm for years and years -- in fact, ours was  
8 in our family before the Revolutionary War, and they had  
9 tobacco on this farm.

10 Now, all of the tenants who did tobacco farming  
11 have gone to the outlying sections of Washington and are  
12 now building houses. It is impossible to get a farmer.

13 Is this not playing into the hands of the land  
14 sharks and the developers when you have a place and the  
15 taxes have gone so high? When you are making nothing on  
16 it you can't afford to pay the higher taxes, so you must  
17 sell out at a very low rate, and then the developers have  
18 quite the advantage.

19 DELEGATE CASE: Was that a question?

20 THE CHAIRMAN: I think so.

21 DELEGATE CASE: Delegate Robie, I wish I could





1 answer that question with the clearness and definitiveness  
2 that I know you would like to have. I do have some diffi-  
3 culty in following exactly what you want me to respond to.

4 If you are suggesting whether or not the committee  
5 reviewed the problem from the standpoint of the availability  
6 of help on farms, I would have to respond that we did not.

7 If, on the other hand, your question suggests  
8 would a farmer who was actually conducting a farm in close  
9 to the metropolitan area be given the same treatment as  
10 some other farmer, the answer is that we did discuss this  
11 subject, and he would be afforded the same treatment if he  
12 were in the same class.

13 DELEGATE ROBIE: Perhaps I really would like to  
14 ask you a question: Are these farmers who have no longer  
15 -- well, if they have put their farms in the pasture-  
16 lands and things of this kind, are they then counted as  
17 farmers?

18 I know you have gone over this --

19 DELEGATE CASE: Oh, yes.

20 DELEGATE ROBIE: -- but I do know the labor  
21 market has a great deal to do with this particular



1 question.

2 DELEGATE CASE: If the land is in a soil bank,  
3 it is a farm, if the man who owns it is a farmer.

4 DELEGATE ROBIE: Thank you.

5 THE CHAIRMAN: Delegate Beatrice Miller.

6 DELEGATE B. MILLER: Chairman Case,  
7 I have just a clarifying question.

8 In the first place, I am not quite sure how  
9 your reply yesterday to Delegate Maurer's question on sec-  
10 tion 8.01(a) applies, in terms of whether or not the tax-  
11 ing power could be exercised by an elected school board,  
12 if such an elected school board were exercising powers, and  
13 since I am not an attorney, I don't understand what the  
14 definition of legislative power is.

15 For instance, a school board which sets teachers'  
16 salaries, which sets policies for the schools, are these  
17 legislative powers?

18 DELEGATE CASE: No. Legislative powers are powers  
19 to make laws and my answer to Delegate Maurer's question  
20 was simply this-- if it was Delegate Maurer; I have for-  
21 gotten now -- that if the General Assembly could



1 constitutionally set up a school board and provide that its  
2 membership should be elected by the people vested with the  
3 power to make laws about any and all subjects pertaining  
4 to schools, then in my judgment, the General Assembly could  
5 also grant to that board the power to tax.

6 THE CHAIRMAN: Delegate Miller.

7 DELEGATE B. MILLER: It is a little bit far  
8 fetched, but is it possible then that the State school  
9 board could be given such a taxing power?

10 THE CHAIRMAN: Delegate Miller, I am not sure  
11 you understand Delegate Case. He had a small important  
12 word at the beginning of his sentence. It was "if."  
13 I don't think he was suggesting to you that would be done.

14 DELEGATE B. MILLER: My question was, under the  
15 definition -- I see. You are saying in effect that  
16 even the State school board at the present time does not  
17 have such legislative power?

18 DELEGATE CASE: It does not.

19 I have been a member of that board, and I have  
20 some knowledge of it.

21 THE CHAIRMAN: Delegate Miller.





1 DELEGATE B. MILLER: I have another question,  
2 please.

3 In section 8.02-2, when you talk about exemptions,  
4 exemptions with respect to any tax imposed by the State  
5 shall be made, do you mean just the State, or do you mean  
6 the State and its subdivisions?

7 DELEGATE CASE: Just the State.

8 THE CHAIRMAN: Delegate Miller.

9 DELEGATE B. MILLER: My third question is:  
10 Did your committee at any time consider under section 8.02  
11 an alternative method of relief for the farmers?

12 DELEGATE CASE: I think you would have to be a  
13 little more specific. We discussed the problem in great  
14 detail, and I would guess that perhaps in that discussion  
15 there was some, or there were alternative suggested. If  
16 you will give me exactly what you have in mind, I will be  
17 glad to comment on it.

18 THE CHAIRMAN: Delegate Miller.

19 DELEGATE B. MILLER: I was thinking perhaps of  
20 a kind of tax rebate or tax writeoff which we have granted  
21 to the elderly, rather than getting involved with the



1 question of land, which has proved such a difficult one.

2 DELEGATE CASE: Yes, Delegate Miller, we not  
3 only discussed those, but we discussed the general theory  
4 as held in some States, and which was advanced here last  
5 time, that taxes be deferred until the sale of the property,  
6 and then at that time the property would be subject to re-  
7 assessment, for say a period of back five years, taxes  
8 calculated to what they would have been if the property  
9 had been assessed and collected at that time.

10 The reason we didn't go for that is, as you  
11 know, the General Assembly this year in enacting the Agnew-  
12 Hughs tax plan, has imposed for the first time the capital  
13 gains tax, so the farmer will be hit with this tax, which he  
14 never would have been before as far as State taxes are  
15 concerned. So for this and other reasons these credits  
16 and deferred credit procedures are tremendously different,  
17 but they are not a constitutional dimension anyway, but  
18 these were all considered.

19 THE CHAIRMAN: Any further questions, Delegate  
20 Miller?

21 DELEGATE B. MILLER: Yes, Mr. Chairman, I have





1 one final question, The question of special exemptions  
2 for corporations has come up several times in the  
3 committees of this convention. I find no place in the  
4 recommendations of the State Finance any mention of this.  
5 Have you considered it -- and if so, why did you omit any  
6 reference to it?

7 DELEGATE CASE: If you mean the exemptions for  
8 corporation inventory, machinery and tools -- is that the  
9 kind of exemptions you mean?

10 THE CHAIRMAN: Delegate Miller.

11 DELEGATE B. MILLER: I do not mean that. I  
12 mean the type of exemption which the B&O Railroad now  
13 enjoys.

14 DELEGATE CASE: It is the only one of its kind.

15 DELEGATE B. MILLER: Are you sure?

16 DELEGATE CASE: My understanding is that there  
17 were two, Greenmount Cemetery and the B&O Railroad.  
18 The Greenmount Cemetery exemption has expired, so that the  
19 B&O is the only one that has it.

20 I believe there will be at a later time more  
21 discussion on that in another section of our deliberations.



1 THE CHAIRMAN: Delegate Miller.

2 DELEGATE B. MILLER: You intend to make a further  
3 report?

4 DELEGATE CASE: We do not, Delegate Miller, but  
5 it is my understanding -- and I will be corrected by the  
6 Chair on this -- that there will be something put in the  
7 Constitution on this point.

8 THE CHAIRMAN: There is a matter pending before  
9 another committee, the matter just spoken about.

10 Delegate Henderson.

11 DELEGATE HENDERSON: Returning to the farm exemp-  
12 tion again, although a great deal has been said about it,  
13 is it your view that there could be a valid classification  
14 so that a farmer who continues farming only for the  
15 purpose of making capital gain in five or ten years due  
16 to the appreciation of his land and suitability for develop-  
17 ment purposes, and the developer who buys the farm and con-  
18 tinues to farm it with the same motive would pay a different  
19 rate of taxation -- one would be three times the value of the  
20 other?

21 DELEGATE CASE: Judge Henderson, what I said



1 was that a criteria could be written which might -- and  
2 I underscore the word "might" -- lead to that result, if  
3 the finders of fact found it to be justified.

4 Let me say this, sir: In the present law -- and  
5 I will be glad to read it to you verbatim, if you care to  
6 listen to it -- there are 29 criteria which the State Tax-  
7 ation Commission or the State Department of Assessments and  
8 Taxation suggested as being tests. In addition to that,  
9 there are four criteria in the statute. Additionally, there  
10 is a statement of general purpose in the statute.

11 Now, you, as a long-time distinguished jurist  
12 know, as I think I know, that where you have fact questions  
13 what you seek to do is to test the existing facts as they  
14 are brought forth in the record with the tests, or match  
15 them up with the tests which the legislature and the  
16 administrative body has set, and then you reach a  
17 judgment, and sometimes -- and I can't say this in this  
18 particular field, because we have had no experience with it  
19 as the Court of Appeals ruled out the right to make such  
20 judgments in the Alsop case, but in other cases the valua-  
21 tion of stock in closely held corporations, for example,





1 the determination of the applicability of the internal  
2 revenue code, section 5.31, you find in almost identical  
3 situations the court going in different directions.

4 What we seek to do is to give the General Assembly  
5 in the first instance, and the administrative agency in the  
6 ultimate instance, the freedom to make meaningful judgments  
7 so that the bona fide farmer will be protected, but the ob-  
8 vious land speculator will not.

9 DELEGATE HENDERSON: I take it what you are saying  
10 is that you do believe that a valid constitutional distinc-  
11 tion can be drawn between a farmer who does want the same  
12 thing as the speculator, even though they may both be specu-  
13 lating. Is that true?

14 THE CHAIRMAN: Delegate Case.

15 DELEGATE CASE: I am not saying it is a constitu-  
16 tional distinction. I am saying we are establishing a  
17 classification which we are defining by the use of the  
18 words "agricultural use."

19 Now, that is as far as the Constitution goes.  
20 What is agricultural use depends in the first instance upon  
21 the judgment made by the administrative board, but in the  
last analysis, of course, by the courts interpreting that



judgment, whether it be right or wrong.

1           THE CHAIRMAN: Delegate Case, if the Chair  
2 may paraphrase Delegate Henderson's last question so that  
3 the record may be clear, I think he was suggesting that  
4 if you had two pieces of property as to which the fact  
5 situations with respect to character of property and uses  
6 were identical and as to which the fact situations were  
7 identical in all other respects except that in one the  
8 owner was a person whose usual vocation was that of farmer  
9 whereas in the other the owner was a person whose usual  
10 vocation was other than a farmer, would the legislature  
11 under Section 8.02 be justified in authorizing a separate  
12 classification.

13           DELEGATE CASE: I would argue most strenuously  
14 that it could not.

15           THE CHAIRMAN: Delegate Moser?

16           DELEGATE MOSER: Delegate Case, this is not a  
17 question on farm assessments. With respect to the  
18 reservation to the State of the power to tax in Section  
19 7.05 which, as you know, this is a local government  
20 article which, as you know, was based on the Israeli  
21 case proposal and also with respect to the grandfather





1 clause which is the last sentence of that, the county  
2 may exercise such tax powers as may be granted to it by  
3 law and may continue to exercise any tax powers --  
4 Referring specifically to the words "power to tax" or  
5 "tax powers" and also referring to the same language  
6 as used in the State Finance and Taxation grandfather  
7 clause which is 8.01(b), taxing powers as it is used  
8 there, I think -- The question is, is it clear that the  
9 reservation of the taxing power and also the reference  
10 to taxing powers which the sub-divisions now have or the  
11 counties now have includes the power to grant exemptions  
12 from tax. I take it the answer is yes?

13 DELEGATE CASE: I wish it were as clear as  
14 you and I would like to see it. I think it is, but I  
15 have heard some dissent.

16 THE CHAIRMAN: Delegate Moser?

17 DELEGATE MOSER: I was hopeful that we might  
18 get a clear statement that by the uses of these terms we  
19 intend to reserve to the State, not -- Well, the power to  
20 grant the power to tax to the sub-divisions and along  
21 with it the power to grant exemptions by the sub-divisions.



1           DELEGATE CASE: It is my own opinion that the  
2 power to tax includes the power to exempt. When one is  
3 granted it includes the other.

4           THE CHAIRMAN: To paraphrase Delegate Moser's  
5 question, it is the intent of this section that the  
6 reservation of the legislature of the power to tax and  
7 the power to authorize counties to tax is intended to  
8 include also the power in the legislature to authorize  
9 counties to exempt or not exempt properties to tax.

10          DELEGATE CASE: That is correct.

11          DELEGATE MOSER: As I see the problem, it  
12 probably wouldn't arise there. There are cases which  
13 indicate that is pretty nearly correct. What I am  
14 concerned about is the uses of the grandfather clauses  
15 when we say the counties will retain the taxing powers  
16 that we now have. The problem may arise from such  
17 changes as Churchill versus Baltimore and Jones versus  
18 Brodey in 135 Maryland which apply the Dillon rule and  
19 strict instructions say in effect when you grant the  
20 power to tax you don't grant the power to grant exemptions.  
21 What I am trying to elicit from you is that we do not



1 intend by this constitutional language that narrow  
2 interpretation. We intend to include the power to grant  
3 exemptions.

4 DELEGATE CASE: That is correct.

5 DELEGATE MOSER: That is correct.

6 DELEGATE CASE: It was the existence of those  
7 cases which prompted me to say that under existing law  
8 there was some question about it, although there is none  
9 in my mind. Although certainly under the provisions that  
10 we have here, there should be no question about it and I  
11 hope there won't be.

12 THE CHAIRMAN: Delegate Gilchrist.

13 DELEGATE GILCHRIST: Delegate Case, following  
14 the line of Delegate Moser's questioning that was done  
15 last evening by Delegate Henderson with specific reference  
16 to the policy of granting industrial exemptions which  
17 has been in effect in a number of counties for some years,  
18 I wonder whether it might not be proper that the record  
19 would show the intention of the Committee with respect  
20 to the specific situations. First, I would assume that the  
21 Committee would feel that this has no effect on existing





1 exemptions.

2 DELEGATE CASE: That is correct.

3 DELEGATE GILCHRIST: Then what would be the  
4 feeling of the Committee on the effect of the continuation  
5 of existing powers of certain counties to grant exemptions  
6 for new industries?

7 DELEGATE CASE: Well, as it is written  
8 presently, I would think that those powers would have to  
9 be exercised uniformly and I am considering, I might say,  
10 and I might as well make this announcement now, an  
11 amendment to Section 8.02-2 which seeks to meet the  
12 point which Judge Henderson made last night because I  
13 think he had a good point.

14 THE CHAIRMAN: Delegate Case, I am not sure that  
15 your answer was responsive to Delegate Gilchrist's  
16 question. He was asking whether the existing powers of  
17 the local subdivisions, municipalities primarily, would  
18 continue under this section. I take it your answer is  
19 that they would continue unless withdrawn and they could  
20 be withdrawn on a separate basis?

21 DELEGATE GILCHRIST: That is right.



1 THE CHAIRMAN: Now, I think the Chair has  
2 misstated it. Under Section 7.05 they could be withdrawn  
3 only by general law.

4 DELEGATE GILCHRIST: Only by general law.

5 THE CHAIRMAN: All right.

6 Delegate Gilchrist.

7 DELEGATE GILCHRIST: With respect to the  
8 effect of this section on other counties which might  
9 desire to adopt the policy of granting exemptions to  
10 new industries since they have proven to be a very useful  
11 tool in industrial promotion, would it be your feeling  
12 that the right to grant exemptions would have to be  
13 given to the counties on an overall basis by general  
14 law rather than by the specific method which has been  
15 used in the past?

16 THE CHAIRMAN: Your question now is directed  
17 to counties rather than municipalities.

18 DELEGATE GILCHRIST: Either counties or  
19 municipalities since I assume -- Excuse me. The same  
20 rule does not apply.

21 THE CHAIRMAN: Which is your question directed





1 to?

2 DELEGATE GILCHRIST: My question is counties  
3 specifically.

4 DELEGATE CASE: This doesn't deal with counties  
5 at all, Delegate Gilchrist.

6 THE CHAIRMAN: Delegate Gilchrist.

7 DELEGATE GILCHRIST: But the effect of  
8 8.01(b) saying that the political subdivision shall  
9 obtain, unless withdrawn, the taxing powers --

10 DELEGATE CASE: That would be by general law.

11 DELEGATE GILCHRIST: We said it already  
12 included the power to exempt as a part of the taxing  
13 power.

14 DELEGATE CASE: By general law.

15 DELEGATE GILCHRIST: Then if the power to  
16 grant exemptions in another county is desired, it will  
17 have to be granted by general law rather than a specific  
18 method previously used?

19 DELEGATE CASE: That is right.

20 THE CHAIRMAN: I am afraid this may have been  
21 confused. It is my understanding



1 under 7.05 that this is not necessarily by general law,  
2 but the grant or withdrawal of taxing powers to munici-  
3 palities must be by general law. That is not by counties.  
4 Is that correct?

5 Is that correct? As to counties it would be  
6 Section 7.05. As to municipalities it would be 7.07, 8  
7 and 9.

8 DELEGATE CASE: The words, "by law", you are  
9 interpreting the words "by law" used in Section 7.05  
10 to mean that a law could be passed for one county and  
11 only one county? I was under the impression that this  
12 was not the intention of the Committee.

13 THE CHAIRMAN: It was the Chair's understanding  
14 that under Section 7.05 the legislature could act differently  
15 from county to county in granting or withdrawing taxing  
16 powers, but that under Sections 7.07, 7.08, and 7.09 the  
17 legislature with respect to tax matters could grant or  
18 withdraw powers from municipalities only by public general  
19 law. I thought that is what we had stated earlier.

20 DELEGATE CASE: If that is the case, the  
21 intention in answer to Delegate Gilchrist's question is



1 that exemptions would be covered by the same kind of law  
2 as the power to tax and that same kind of law is interpreted  
3 by the Chairman of the Committee of the Whole as found  
4 in Section 7.05, would be a special law for a special  
5 county. Therefore, I stand corrected in my answer. I  
6 might say, Delegate Gilchrist, that the result of the --  
7 that the object of the Committee on finance and taxation  
8 is uniformity and equality, but as I stated earlier, the  
9 methodology by which this was achieved was left to the  
10 Committee on local government. The two have to be put  
11 together in some fashion which I think we are trying to do  
12 here now.

13 DELEGATE WHEATLEY: On Section 8.02 as to  
14 class, it is the interpretation of the committee as I  
15 understand it, this is to be given as wide an interpretation  
16 as possible? Is the scope of class limited to a narrow or  
17 broad class?

18 DELEGATE CASE: Whatever the General Assembly  
19 seeks to do which would be reasonable.

20 DELEGATE WHEATLEY: More specifically, would  
21 it be within the scope of your intention that the General





1 Assembly in establishing an agricultural class could then  
2 further establish a class limited in size to farms over  
3 a thousand acres? Would that be a legitimate type of  
4 class?

5 DELEGATE CASE: Well, these are questions which  
6 the courts are going to have to decide ultimately. Again,  
7 as I say, the question is one of reasonableness. Now,  
8 the General Assembly has not to this time used any one  
9 single factor as determinative. It has used twenty-nine  
10 factors in combination. What you are asking me is could  
11 they say any property which has more than one thousand  
12 acres is ipso facto a farm? I am saying to you, I don't  
13 know the answer to that.

14 DELEGATE WHEATLEY: I think perhaps it would  
15 be better to refer it to the Department of Agriculture  
16 because that is not the primary intent of my question.  
17 Could age in itself be a class such as people who reach  
18 the age sixty-five are in a class?

19 DELEGATE CASE: It is pretty well established  
20 that the age sixty-five is a delineation of a class for  
21 social security, tax purposes, income credit purposes, and



1 real estate tax purposes. I think that is pretty well  
2 established.

3 DELEGATE WHEATLEY: Further, under 8.02-2  
4 this same class could be granted as an exemption as to  
5 age?

6 DELEGATE CASE: If it were uniform, that is  
7 correct.

8 DELEGATE WHEATLEY: Finally, we could use  
9 the existing method of tax credit for the same type of  
10 allowance for age.

11 DELEGATE CASE: There is nothing in this which  
12 would prevent the use of the credit or in any way intend  
13 that it be abolished.

14 DELEGATE WHEATLEY: So, in essence, we are  
15 giving the General Assembly and local government as to  
16 class, exemption and credit, what differentiation is  
17 made by the Committee as to who, and we have gotten to  
18 this a little bit, as to whom this would apply to. Would  
19 the State be able to control class alone or would it be  
20 regulated by the local government?

21 DELEGATE CASE: As this is now written, as





1 far as exemptions are concerned, definitively only the  
2 State, but through the inference that exemptions follow  
3 the taxing power under Section 8.01-b, the local political  
4 unit can do it. If it were a county as we established  
5 earlier, they could do it through a grant by a single  
6 application to that county. If it were a municipality,  
7 on the other hand, it would be a general law.

8 THE CHAIRMAN: Delegate Wheatley.

9 DELEGATE WHEATLEY: As to class --

10 DELEGATE CASE: The same would be true.

11 DELEGATE WHEATLEY: In either event, it would  
12 be local or state as the case may be.

13 DELEGATE CASE? Yes.

14 THE CHAIRMAN: Delegate Maurer.

15 DELEGATE MAURER: Delegate Case, your answers  
16 to Delegate Miller raised several questions in my mind,  
17 and I would like to ask you something further about  
18 8.01(a) and the phrase "exercising legislative powers".  
19 As I understand 8.01(a) it is basically what was in the  
20 draft constitution with the thought, and I quote from  
21 the commentary, "the purpose of this draft section is to



1 prevent the imposition of taxes without consent of the  
2 legislative representatives that delegations of taxing  
3 authority to local subdivisions have been held proper,  
4 but in some instances the principle appears to have been  
5 eroded through the delegation of taxing authority to  
6 non-elective administrative boards". Does your phrase,  
7 "by the elected representatives of the people exercising  
8 legislative powers" equate with the phrase, "by popularly  
9 elected representative bodies", or is it more restrictive?

10 DELEGATE CASE: That question was answered  
11 last night, Delegate Maurer. It was asked by Delegate  
12 Clagett, and I said it meant exactly the same thing and  
13 the Committee still felt the word "popularly" should be  
14 in the draft. We would have no objection to it.

15 DELEGATE MAURER: I know the word "popularly",  
16 but there are other bodies exercising legislative functions  
17 than as you describe it. I do not see physical  
18 independence for school boards, but we do have an elected  
19 school board in Montgomery power.

20 DELEGATE CASE: It does not exercise legislative  
21 power.



1 DELEGATE MAURER: Then your phrase is not the  
2 same as "by a popularly elected legislative power"?

3 DELEGATE CASE: No. Then they are altogether  
4 different.

5 DELEGATE MAURER: Then, in effect, this would  
6 close the door to any possible future interest in giving  
7 taxing authority to elected bodies which are not the  
8 basic governmental unit.

9 DELEGATE CASE: Absolutely.

10 DELEGATE MAURER: Thank you.

11 THE CHAIRMAN: Delegate Carson.

12 DELEGATE MACDONALD: Delegate Case, what will  
13 be the effect of the farm tax assessment which is  
14 mandated by Section 8.02 on tax paupers other than  
15 farmers?

16 DELEGATE CASE: If you are coming around to the  
17 Howse study, Delegate Macdonald, we might as well get to  
18 it right now. The effect on any exemption as Mr. Howse  
19 sets out to prove and does so in a thirty or forty-page  
20 document which merely proves the obvious is, of course,  
21 that other people who are not similarly assessed are





1 going to pay more in taxes than the other, than they  
2 otherwise would if the assessments were made completely  
3 uniformly across the board. This, of course, does not  
4 reach the point that we are seeking to make. However, any  
5 exemption does this. The exemption in your county for  
6 scientific equipment, machinery, and so on, certainly does  
7 this. What you are doing is that you are trying to make  
8 a choice of values and the choice of values here is that  
9 it is important to maintain our agricultural community  
10 just as in Montgomery County it is important to have  
11 science-oriented industry to come into the county. A  
12 similar point can be made when we sought to get the  
13 Bureau of Standards into the county, sought to get the  
14 Atomic Energy Commission into the county. This was a  
15 withdrawal of the taxable basis, but the feeling was that  
16 the greater community good would be served. That is  
17 exactly the same thing you are dealing with here.

18 DELEGATE MACDONALD: I wasn't trying to argue  
19 the point. I was just trying to bring out the effect  
20 that it will cost.

21 DELEGATE CASE: I wasn't seeking to argue it



1 either, but I was merely trying to show you that every  
2 time you treat an assessible piece of property differently  
3 from the norm, the result necessarily has to be that  
4 somebody has got to pick up the burden. It is a question  
5 of distribution.

6 THE CHAIRMAN: Delegate Macdonald.

7 DELEGATE MACDONALD: Will the farm tax assess-  
8 ment law which is mandated by Section 8.02 have any  
9 effect on the equalization formula, any effect on the  
10 monies which are distributed by the states to the various  
11 counties in Baltimore City?

12 DELEGATE CASE: Well, if you mean will the  
13 assessments be brought up to full cash value, I would  
14 think not.

15 In other words, the --

16 DELEGATE MACDONALD: Will the effect be that the  
17 people in Baltimore City will be prejudiced taxwise?

18 DELEGATE CASE: Well, the word "prejudice"  
19 gives me some difficulty because I am not sure, quite  
20 sure, what you mean by that. The people in Baltimore City  
21 may indeed have other considerations that the rural





1 communities don't have. For example, Baltimore City  
2 <sup>used</sup> exempts tools and machines/in manufacturing from taxes.  
3 This is not true in some counties. So there is one  
4 vis-a-vis another. It is hard to see how they are  
5 prejudiced.

6 THE CHAIRMAN: Delegate Macdonald.

7 DELEGATE MACDONALD: Assume two situations,  
8 Delegate Case. If we had the farm tax assessment law,  
9 will Baltimore City receive the same amount, a less  
10 amount, or more, under the equalization formula?

11 DELEGATE CASE: Than when?

12 DELEGATE MACDONALD: Than if we don't have the  
13 formal tax assessment law?

14 DELEGATE CASE: Just a minute.

15 Of course, these hypotheses have not been worked  
16 out in so many figures. In my judgment, if all farm land  
17 was assessed at one hundred per cent value, this is what  
18 you are suggesting? Is this not correct?

19 DELEGATE MACDONALD: No, I am not suggesting  
20 that. I don't understand that any land --

21 DELEGATE CASE: Let us say sixty per cent. You



1 choose a figure and I will accept it.

2 DELEGATE MACDONALD: That is the figure that  
3 I understand. Sixty per cent is the figure that property  
4 is assessed at throughout the State of Maryland, at least  
5 I understand, or at least that is the goal.

6 DELEGATE CASE: That is right. If all property  
7 were required to be assessed at sixty per cent of value,  
8 then it seems to me that the basis for, absent the section  
9 on equalization, the basis for determining the taxes in  
10 the local political subdivision, would be greater. This  
11 would mean that the money coming to those political  
12 subdivisions would be less. It would have nothing to do  
13 with what Baltimore City would get, one way or the other.  
14 What you are really driving at is that since most of the  
15 tax powers are in Baltimore City and since they provide  
16 the other money, would they be called upon to pay more  
17 in other taxes? The answer to that is probably yes, but  
18 so would the people in Montgomery County and Prince  
19 Georges County and Baltimore County. Do you follow what  
20 I am saying? The fact that you have an underassessment  
21 or overassessment doesn't mean that one political unit



1 gets more or less. The point that is always made here  
2 and you should understand is who pays the county that  
3 gets more than it should. Now, by the same token, if this  
4 farm assessment provision is adopted as a part of the  
5 integral part of the state, then this coupled with  
6 Section 8.02-1, the equalization section, will insure  
7 that each political subdivision will get exactly what it  
8 is entitled to per the constitution and that the people  
9 in your county will not be required to pay any more than  
10 the people in my county for conscious underassessment.

11 Delegate Macdonald, do you have a further  
12 question?

13 DELEGATE MACDONALD: Is it not a fact, Delegate  
14 Case, if one group, in this particular case, the farmers,  
15 are given a special tax break, assessmentwise, that that  
16 increases the burden on other taxpayers and that that  
17 increase is reflected not only in the assessments them-  
18 selves, but through the equalization formula.

19 DELEGATE CASE: As I answered earlier, of  
20 course, anytime you reduce an exemption or make an exemption,  
21 and I don't care what exemption it is, you necessarily





1 increase the burden the other taxpayers share. This is as  
2 axiomatic as today is Tuesday. This is what Mr. Howse  
3 set out to prove and did prove in thirty pages of some-  
4 what meaningless statistics in my judgment. So the  
5 first point you make is absolutely correct. There can  
6 be no question about it.

7 Now, the second point that you make stems, I  
8 think, from a misunderstanding of the way equalization  
9 works. Equalization doesn't mean that a political  
10 unit like Baltimore City gets less. What undervaluation  
11 equalization means is that the undervalued county gets  
12 more. Now, the question then turns on where does the  
13 more come from and the more comes from the general funds  
14 of the State which are provided by and large by your  
15 county, by my county of Baltimore City and Prince Georges  
16 County, but it is not a question of anybody getting less.  
17 Do I make that point clear?

18 THE CHAIRMAN: Delegate Macdonald.

19 DELEGATE MACDONALD: Isn't it a fact if  
20 Carroll County gets more, some other political sub-  
21 division must get less?



1 DELEGATE CASE: No.

2 DELEGATE MACDONALD: Aren't we dealing with  
3 one hundred per cent?

4 DELEGATE CASE: No, you are dealing with a  
5 requirement in the educational field. Let us say that  
6 there must be three hundred and seventy dollars multiplied  
7 by the number of students in that particular county.

8 This is not one hundred per cent. This is open ended. It  
9 is open ended so an undervaluation or an underassessment  
10 means -- Let me state it again. Where you have a county,  
11 I don't like to pick any one county, but let us say  
12 County "X". If County "X" assesses it so that it is  
13 consciously undervalued and that valuation base is the  
14 determinative factor in the sharing of state revenues then  
15 because it is undervalued, it will receive more state  
16 revenues than it otherwise would. This is not to say that  
17 Baltimore City receives, or any other place receives, less.  
18 What it means is that there is more state money that has  
19 to be found somewhere and should be found and the taxpayers  
20 of the state and the general taxpayers are going to have  
21 to pay it.





1 THE CHAIRMAN: In other words, Delegate  
2 Macdonald, the appropriation for the State equalization  
3 fund must be greater.

4 Delegate Macdonald.

5 DELEGATE MACDONALD: And that would be collected  
6 from the other taxpayers.

7 DELEGATE CASE: General taxpayers. That is  
8 correct.

9 THE CHAIRMAN: Delegate Pullen.

10 DELEGATE PULLEN: Mr. Case, is it not true  
11 that the amount of money coming from the State goes to  
12 every county in accordance with the deeds in that particular  
13 county by a formula. In other words, so many dollars  
14 for so many children, therefore, in that sense nobody  
15 loses anything, but if a county through exemptions or  
16 some other purpose, say, is underestimated by, say, ten  
17 thousand dollars, that ten thousand dollars in the over-  
18 all has to be made up by the rest of the State.

19 DELEGATE CASE: That is correct.

20 THE CHAIRMAN: Delegate Grumbacher.

21 DELEGATE GRUMBACHER: That was just my machine



1 gunning off.

2 DELEGATE CASE: I hope it wasn't aimed at  
3 me.

4 DELEGATE GRUMBACHER: Wouldn't the equalization  
5 clause in here straighten out some of these problems?

6 DELEGATE CASE: That is the intention of it.  
7 That is correct.

8 THE CHAIRMAN: Delegate Hardwicke.

9 DELEGATE HARDWICKE: Delegate Case, I am  
10 interested in the interplays between 8.01(a) and (b), and  
11 I am aware of the fact that a number of questions have  
12 been directed to you concerning this, but may I ask you  
13 whether or not a political subdivision can be delegated  
14 the taxing power provided it meets the two criteria  
15 set out in 8.01(a)? That is to say, that it is elected  
16 and that it possesses legislative powers?

17 DELEGATE CASE: I am sorry, Delegate Hardwicke,  
18 I didn't get the thrust of your question.

19 DELEGATE HARDWICKE: If a political sub-  
20 division meets the points of 8.01(a), if it is elected  
21 and possesses taxing power --



1           DELEGATE CASE: If the governing agency does,  
2 is elected, and if the governing agency possesses  
3 legislative powers, then, but only then, can it be  
4 granted the taxing power.

5           DELEGATE HARDWICKE: In your comment on  
6 8.01(a), you say that this paragraph is intended to  
7 express the principle, no taxation without representation.

8           DELEGATE CASE: That is correct.

9           DELEGATE HARDWICKE: As I understand that  
10 principle historically, the idea is that the people who  
11 imposed the tax must be the people whom the taxed persons  
12 have elected?

13          DELEGATE CASE: That is correct.

14          DELEGATE HARDWICKE: So if that is true, then,  
15 would it be possible for a governmental unit to be given  
16 the power to tax persons who did not actually vote for  
17 them?

18          DELEGATE CASE: No, sir.

19          DELEGATE HARDWICKE: It would not be possible?

20          DELEGATE CASE: It would not in my opinion,  
21 no, sir.





1           DELEGATE HARDWICKE: Would it then not be  
2 possible, then, for a governmental unit to impose a payroll  
3 tax which would cover persons who did not have the  
4 power to vote for them, but who for some reason or  
5 another came within the jurisdiction of that governmental  
6 unit?

7           DELEGATE CASE: Of course, as you know,  
8 Delegate Hardwicke, the question of the constitutionality  
9 of payroll taxes has been before a great number of  
10 states, particularly in Pennsylvania and Ohio, and the  
11 argument has always been made that people whose residence  
12 or domicile was in a non-taxing jurisdiction were improperly  
13 hit with the tax of the taxing jurisdiction and the  
14 cases have almost uniformly held that this is not true  
15 because generally the theory is that the taxpayer didn't  
16 have to work in that particular area and did so by choice  
17 and, therefore, subjected himself to the tax.

18           THE CHAIRMAN: Delegate Hardwicke.

19           DELEGATE CASE: This is a neat constitutional  
20 question.

21           THE CHAIRMAN: Delegate Hardwicke.



1           DELEGATE HARDWICKE: Then I would like for  
2 the record of this convention to be clarified with  
3 respect to one of the criteria that you set out in  
4 8.01(a), namely, that these elected representatives of  
5 the people can impose this tax on people who had no right  
6 or power to vote for them and I am particularly anxious  
7 that that clarification be made, especially in view of  
8 your great emphasis, both in your comments here and also  
9 in the written commentary, that you were intending to  
10 perpetuate the principle of no taxation without repre-  
11 sentation. In other words, I would like to see the point  
12 clarified so that in later case law, in arguments before  
13 the Court of Appeals, you don't give greater impetus to  
14 this argument of taxation without representation and this  
15 possible perversion or subversion of it.

16           DELEGATE CASE: I think that is a salutary  
17 clarification. It is accepted.

18           THE CHAIRMAN: It is true that under Section  
19 8.01(a) the City of Baltimore could be given the power  
20 to tax all property in the City regardless of the fact  
21 that the ownership of the property may be in non-residents,





1 who had no right to vote in the City.

2 DELEGATE CASE: That is correct.

3 THE CHAIRMAN: Delegate Bennett?

4 DELEGATE BENNETT: Delegate Case, I hesitate  
5 to tax your patience and your indulgence any further, but  
6 would you tell me whether the Section 8.02 mandates a  
7 complete reassessment of all property throughout the  
8 State, not only real property, but every other type of  
9 property?

10 DELEGATE CASE: No, sir, it does not.

11 THE CHAIRMAN: Delegate Bennett.

12 DELEGATE BENNETT: Well, after we draft these  
13 rules and classifications and so on and the legislature  
14 goes in, don't we have to reassess the property under  
15 those new classifications?

16 DELEGATE CASE: The legislature could accept  
17 the classifications we now have in which event there wouldn't  
18 be any necessity for it.

19 DELEGATE BENNETT: But the likelihood is that  
20 it would require under a pretty broad scale a reassessment?

21 DELEGATE CASE: This is very difficult to say.



1 My own personal opinion is that the General Assembly  
2 is not going to depart very largely from, nor will the  
3 State Department of Assessments and Taxation depart very  
4 largely, from the classifications we now have. You see,  
5 as of today the State Department of Assessments and  
6 Taxation has done a pretty fine job in classifying land  
7 and, of course, personal property has been classifiable  
8 for many, many years so that these matters have been  
9 under constant surveillance and have been worked out by  
10 the authorities for a long period of time. I see nothing  
11 in this which is going to require a wholesale scrapping  
12 of all of that and go into something new, and I don't  
13 think it will happen.

14 DELEGATE BENNETT: On the other hand, you are  
15 not saying that this is meaningless?

16 DELEGATE CASE: No, I am saying this lays  
17 the foundation for the years to come to permit reclassifi-  
18 cations or sub-classifications of the different kinds of  
19 property, spaceships, for example. I don't know what we  
20 are going to have.

21 THE CHAIRMAN: Delegate Dukes.



1           DELEGATE DUKES: Delegate Case, in your  
2 original conversation today with Delegate Moser I  
3 understood you to say that one of the intentions of  
4 8.01-2 was to require uniform rules of classes both  
5 for the State and for local subdivisions. Is that  
6 correct?

7           DELEGATE CASE: Section 8.02-1 or Section 8.02  
8 and Section 8.02-1 -- I am sorry, Delegate Dukes, I  
9 have lost the thread of your question.

10          THE CHAIRMAN: Delegate Dukes.

11          DELEGATE DUKES: It was my recollection that  
12 we specifically separated Section 8.02, Assessments, and  
13 8.02-2 to distinguish between all taxes, both State and  
14 local, via uniform rules of assessments providing only  
15 those taxes imposed by the State are subject to uniform  
16 rules?

17          DELEGATE CASE: No, you are in error. We  
18 separate 8.02-2 from 8.02. Originally exemptions and  
19 assessments were treated together. The equalization  
20 concept was jammed between them.

21          DELEGATE DUKES: That is what I said.





1 DELEGATE CASE: That is right. Now, the  
2 reason for that was, as I have said before, was that we  
3 found that there would be a very great dislocation of  
4 the economy of certain of the political subdivisions  
5 if we provided that all existing exemptions should be  
6 made uniform.

7 DELEGATE DUKES: So there is no requirement  
8 under 8.02-2 that exemptions set by the local subdivisions  
9 be uniform.

10 DELEGATE CASE: Existing exemptions. That is  
11 correct.

12 THE CHAIRMAN: Delegate Clagett.

13 DELEGATE CLAGETT: Delegate Case, would you  
14 very briefly give us the benefit of the testimony before  
15 your committee which justified, either by way of direct or  
16 collateral benefits, the special consideration of  
17 agricultural land?

18 DELEGATE CASE: If you can wait just a minute,  
19 Delegate Clagett, I think I can.

20 DELEGATE CLAGETT: While you are hunting for  
21 that, with particular reference --



1 DELEGATE CASE: I want to be accurate.

2 DELEGATE CLAGETT: -- with particular reference  
3 to the equalization formula where greater appropriation  
4 would have to be made in order to take care of the  
5 equalization, that is, appropriation from general funds,  
6 as I understand it from the Chair.

7 THE CHAIRMAN: Delegate Case may understand that  
8 last part, but I am frank to say that the Chair doesn't.

9 DELEGATE CASE: There is no answer to that. I  
10 will have to say that there is no answer. I couldn't  
11 give you an answer. I can give you a synopsis of the  
12 testimony that was presented to our committee with  
13 respect to this subject as to why farming should receive  
14 this use type of assessment, but there is no answer to the  
15 second part of your question.

16 THE CHAIRMAN: Delegate Clagett.

17 DELEGATE CLAGETT: Let us leave that second  
18 part out for a moment and let us get the answer to the  
19 first.

20 DELEGATE CASE: Now, you understand, Delegate  
21 Clagett, that I have attempted to present to you what the





1 witnesses said before our committee. The fact is that  
2 they gave a great number of reasons why they felt that  
3 special treatment should be afforded. The principal  
4 reason was that being forced to pay taxes on the market  
5 value assessed, the bona fide farmer could not operate  
6 at a profit. He would find the profit so slight as to  
7 make attractive the prospect of selling his farm. I  
8 think every man who came before the committee stressed  
9 this point so that was Point One, the profitability or  
10 lack thereof of the farmers in this state, if they are  
11 required to pay assessments on a value basis rather  
12 than on a use basis. In addition, there were a number of  
13 people who felt that the aesthetics of the state would  
14 be enhanced by the non-proliferation of developments,  
15 particularly in the edges of the cities. It was felt that  
16 a good social value<sup>was</sup>/to reach for and obtain open spaces in  
17 and about the cities -- We see that where the Chairman of  
18 the Committee and our President and I both live, a  
19 concerted effort on the part of a great many people to  
20 establish what is called a plan for the valleys which  
21 will permit farms to operate in close to urban areas



1 providing thereby open spaces of the kind that we all  
2 like to contemplate, so from both the economic standpoint  
3 of the actual values and the social values based on  
4 society in general, we urge that this recommendation be  
5 made mandatory.

6 THE CHAIRMAN: Delegate Chabot.

7 DELEGATE CHABOT: Delegate Case, I thought I  
8 understood your answers to my earlier questions about  
9 8.02, and I thought that your colloquy with Delegate  
10 Sybert was completely in keeping with those answers, but  
11 I am confused by your responses to Delegate Henderson and  
12 to the Chairman of the Committee of the Whole.

13 DELEGATE CASE: You will have to tell me where  
14 you are confused. Up to this point, you have got me  
15 confused.

16 DELEGATE CHABOT: My question relates to  
17 whether or not it would be competent for the General  
18 Assembly, and I am not talking about wisdom, for the  
19 General Assembly to enact a set of agricultural classifi-  
20 cations which will differentiate between a farm owned and  
21 operated by a person who derived, say, the majority of



1 his income from farming and a similar farm owned and  
2 operated by a person who did not derive the majority of  
3 his income from farming.

4 DELEGATE CASE: You are asking me to usurp  
5 the prerogatives of the court. I couldn't do that. All  
6 I can tell you is that this gives the legislature the  
7 broadest power to make meaningful classifications. That  
8 is what we intended to do. If the court rules that the  
9 classification suggested by Judge Henderson is unreasonable,  
10 then it is invalid. I don't know what the courts would  
11 rule on a case like that any more than I suppose you know,  
12 but there is certainly nothing in this that would permit  
13 the legislature from attempting it if they wish to do so.

14 THE CHAIRMAN: Delegate Chabot..

15 DELEGATE CHABOT: In all of our efforts to  
16 explain our language here we are not trying to usurp  
17 the power of the courts. We are trying to tell the courts  
18 what we mean by the use of these words. My question to  
19 you is would you understand this concept of reasonable  
20 classifications as it is embodied in Section 8.02 which  
21 was presented by your committee to permit the legislature





1 to make that sort of classification if it saw fit to do  
2 so?

3 DELEGATE CASE: As I answered to Delegate  
4 Henderson and to the Chairman, in my opinion it would be  
5 quite unreasonable if it were just that and that alone, and  
6 I would argue strenuously against it. If that conflicts  
7 with anything I said to you earlier, I am sorry, but this  
8 is the way it looks to me.

9 THE CHAIRMAN: That apparently concludes the  
10 questioning. The Chair on behalf of the Committee  
11 expresses its thanks to you, Delegate Case, for the very  
12 trying and lengthy period of questioning.

13 (Applause)

14 THE CHAIRMAN: Will the Clerk ring the quorum  
15 bell, please?

16 Delegate Harry Taylor.

17 DELEGATE TAYLOR: I rise on a point of  
18 personal privilege.

19 Mr. Chairman and ladies and gentlemen of the  
20 convention, I don't know whether you are as fortunate as  
21 I am, but I have many penpals here in this hall, and I



1 have been the recipient of many notes since the convention  
2 convened. Some of these notes are anonymous. Some of  
3 them are nom de plumes. I hope that the couriers of  
4 these notes don't read the contents because if they do  
5 our pages are going to have acquired knowledge on many  
6 subjects other than the Constitution and how a  
7 Constitution is drafted, but I suggest, Mr. Chairman,  
8 that these notes be preserved along with the events that  
9 provoke them and that they be put in a scrapbook by the  
10 historian so that one hundred years from now when a  
11 scholar reads over the text of the questions on taxation  
12 that have been asked here this morning he may turn to the  
13 scrapbook and there under "Tax" he may turn up something  
14 that will give him the true spirit and atmosphere of  
15 this convention. I will give you one he might find:  
16 "Today we talked about tax. The questions were breaking  
17 our backs. Then President Eney ever so keenly confused  
18 the issue with facts."

19 (Laughter and applause)

20 THE CHAIRMAN: Delegate Taylor, I think I  
21 should add at that point only this morning I approved a





1 memorandum to all delegates requesting them to turn over  
2 to the historian any records of interest concerning the  
3 conduct of the convention which may have been accumulated  
4 in their personal files. The memorandum states that all  
5 such records will be carefully preserved and will bear  
6 the notation indicating their source.

7 (Laughter and applause)

8 THE CHAIRMAN: Section 8.01 is now open to  
9 amendment. We should take it up by subdivisions. Section  
10 8.01(a). Are there any amendments?

11 The Chair hears none.

12 Delegate Weidemeyer.

13 DELEGATE WEIDEMEYER: Mr. Chairman, I have an  
14 amendment to Section 8.01.

15 THE CHAIRMAN: Section 8.01(a), are there any  
16 amendments?

17 The Chair hears none.

18 Section 8.01(b), and please consider Section  
19 8.01(b) in the light of the statements made earlier  
20 concerning its purpose and intent. Are there any amendments  
21 to Section 8.01(b)?



1 The Chair hears none.

2 Pages will please distribute Amendment D.

3 Delegate Case, the Chair suggests that you  
4 come forward during this portion of the consideration of  
5 SF-3 and take a chair at the front. The amendment marked  
6 "D" will be Amendment No. 1. The Clerk will read the  
7 Quillen Amendment No. 1 to Committee Recommendation No.  
8 SF-3 by Delegate Weidemeyer.

9 "On Page 1 Section 8.01 Power to Tax following  
10 Line 24 add the following:

11 "(c) The State shall not levy, nor shall  
12 it allow any political subdivision to levy, a tax on  
13 income, excluding deductions and exemptions; except that,  
14 whenever and for such period of time as the federal tax  
15 on incomes is reduced, this rate may be increased in the  
16 same amount by which the federal tax is reduced."

17 THE CHAIRMAN: The amendment is proposed by  
18 Delegate Weidemeyer. Is there a second?

19 (Seconded)

20 THE CHAIRMAN: The amendment having been seconded,  
21 the Chair recognizes Delegate Weidemeyer to speak to the



1 amendment.

2 DELEGATE WEIDEMEYER: Mr. Chairman and ladies  
3 and gentlemen of the convention, this would be a limitation  
4 on the taxing power to levy income taxes. As you know,  
5 we have a five per cent tax on income which now under the  
6 new law embraces capital gain, long term capital gain,  
7 which greatly increases the Maryland income. In addition  
8 to that, there is authorization for the piggy-back tax  
9 of two and a half per cent making it seven and a half  
10 per cent. The purpose of this amendment is to put a  
11 ceiling on income taxes which the legislature can levy  
12 to eight per cent. That gives a leeway of one half of  
13 one per cent if it reached an emergency and needed that  
14 tax. Mr. President, with the enormous income tax now  
15 imposed by the Federal Government and with seven and a  
16 half per cent income levied on the citizens of Maryland,  
17 including capital gain, the tax burden in the income tax  
18 field is tremendous and we cannot, we cannot allow this  
19 to happen where the Federal Government keeps increasing  
20 and the State keeps increasing. We want a little income  
21 left in the pocket of the tax earners and taxpayers.





1 Now, the purpose of this amendment is to place a ceiling.  
2 Now, there is a second clause to this which gives some  
3 leeway. If the Federal Government reduces, then we can  
4 increase proportionately through the reduction made by  
5 the Federal Government. There are some who do not want  
6 the second clause to this, and, Mr. President, if I  
7 might, I would like, if I might, introduce this amendment  
8 in its entirety and if it fails that way, then I would  
9 like to strike the second clause beginning with the  
10 word "except" in Line 9 and have a simple limitation  
11 of nine per cent on the second go. If I might be able  
12 to do that without printing up another amendment, I  
13 would like to take two flings at this amendment, one in  
14 its entirety and one without the second clause.

15 THE CHAIRMAN: My problem is only the purely  
16 mechanical one. It would be in order to offer the second  
17 amendment consisting only of the first part of the first  
18 one. If there isn't any objection to not reprinting it,  
19 it would be permitted.

20 DELEGATE WEIDEMEYER: The second clause has  
21 this concept. There hasn't been much incentive from the



1 states and much urging to get the Federal Government to  
2 reduce its tax structure and I feel that if this is  
3 adopted as part of our new Constitution, probably other  
4 states will see the light of day and they will place tax  
5 limits on income taxes in their constitution and allow  
6 their legislatures to go up proportionate to any Federal  
7 reduction. Now, here is how the thing would work. When  
8 the President and the federal authorities have programs  
9 which they wish the states to initiate, if we and other  
10 states have this program in our Constitution, then our  
11 Governor is enabled to say, Mr. President, and Members of  
12 the Federal Government, if you want us to go ahead with  
13 these programs, we need more tax dollars and if you will  
14 reduce the Federal Income Tax under our constitutional  
15 provisions, we can proportionately raise the state  
16 income tax. The tax burden on the taxpayer will be no  
17 greater overall, but we in the state will have more  
18 revenue and we can go on with those programs on our own  
19 without asking for federal aid and assistance. Mr.  
20 President, I think I have explained it as much as it ought  
21 to be explained. I hope that this amendment passes.





1 THE CHAIRMAN: Delegate Case.

2 DELEGATE CASE: Mr. Chairman and Members of  
3 the Committee, Delegate Weidemeyer brought this proposal  
4 before our Committee and the Committee gave a great deal  
5 of thought, serious and otherwise, and the Committee  
6 decided not to recommend it and its records show it. The  
7 principal reasons why this proposal was turned down by  
8 the Committee are, first, a definitional reason. You  
9 will note that the amendment speaks in terms of taxable  
10 income, excluding deductions and exemptions, and it is  
11 very difficult for me and I have dealt in tax matters for  
12 a long number of years to say what that means because  
13 taxable incomes usually excludes deductions and exemptions.  
14 The use of the word "therefore" is confusing. The more  
15 important reason for the action of the Committee was the  
16 inherent complexity of the proposal. You will note that  
17 the tax, and this is what I think Delegate Weidemeyer  
18 directed part of his presentation to -- The language  
19 beginning after the word "exemptions" in Line 9, allowing  
20 for a mathematical adjustment, if the federal tax goes down,  
21 which is hardly likely to happen, it would, it seems,



1 add another element of complexity to our tax laws which is  
2 not either necessary or desirable. The third and most  
3 important reason is, of course, that this is not a matter  
4 for the Constitution. It would be tragic, in my judgment,  
5 if the State were hemmed in or hamstrung by a definitional  
6 rate for any tax. Much as I hate to say it, I think the  
7 taxes will continue to increase as far as the State is  
8 concerned, but to put a limit of nine per cent or three  
9 per cent or six per cent or any other per cent in the  
10 Constitution is just bad business and should be avoided.  
11 For all of these reasons, therefore, the Committee  
12 decided not to adopt Delegate Weidemeyer's suggestion,  
13 good intentioned though it may be, and I would certainly  
14 hope that the Committee of the Whole would follow the  
15 advice of the Committee on this subject.

16 THE CHAIRMAN: Any other Delegate desire to  
17 speak in favor of the amendment?

18 (Cries of question)

19 THE CHAIRMAN: Ready for the question?

20 The question arises on the adoption of Amendment  
21 No. 1. A vote aye is a vote in favor of the Amendment. A



1 vote no is a vote against. Cast your vote. Has every  
2 delegate voted? Does any delegate desire to change his  
3 vote? The Clerk will record the vote.

4 There being fourteen votes in the affirmative  
5 and ninety-six in the negative, the motion is lost and the  
6 amendment fails.

7 The Chair will recognize Delegate Weidemeyer  
8 to offer as Amendment No. 2, an amendment just offered  
9 as Amendment No. 1 except to strike out everything in  
10 Line 9 after the word "exemptions" and all of Lines 10,  
11 11, and 12 and all of Line 13 except the period. Is that  
12 your amendment, Delegate Weidemeyer?

13 DELEGATE WEIDEMEYER: Yes.

14 THE CHAIRMAN: Each of you will mark your  
15 copies and the Clerk will mark a new copy. Is there a  
16 second to this amendment too?

17 (seconded)

18 THE CHAIRMAN: The Chair recognizes Delegate  
19 Weidemeyer.

20 DELEGATE WEIDEMEYER: Mr. Chairman, this  
21 amendment moves that objection on the part of the Committee





1 which was that it might be difficult to compute how much  
2 they could go up when the Federal Government reduced, this  
3 fixes a ceiling and I don't think it presents any difficulty  
4 with the words "excluding deductions and exemptions"  
5 because that is what we now have. We pay tax on the  
6 taxable income and the taxable income is that income which  
7 excludes the deductions and exemptions and I don't see  
8 how the people of Maryland are going to be able to  
9 exist if we continually raise the income tax rates. The  
10 Chairman has said there is a possibility of an income  
11 tax rise. We have failed to go into the taxing areas  
12 in other areas where we could get revenue for the State  
13 so we are relegated to taxing real estate, sales taxes, and  
14 income taxes. I don't know how much higher we can go on  
15 sales tax, but I do know that with the federal burden and  
16 the state burden our people, they are getting to the  
17 point where they are being crushed by the taxation load,  
18 and I do think there ought to be in our Constitution a  
19 limitation. Last year or this year while running as a  
20 delegate for the constitutional convention people all  
21 over my area were thoroughly worked up about the increased



1 income tax and I promised them at that time that I would  
2 do something so that this could not continue indefinitely,  
3 and they would know that there would be a limit somewhere  
4 along the lines beyond which the legislature could not  
5 go. Mr. President and Members of the Convention, that  
6 is the simple story, and I move and ask for the adoption  
7 of this amendment.

8 THE CHAIRMAN: Delegate Case?

9 DELEGATE CASE: Mr. Chairman and ladies and  
10 gentlemen of the Committee, much of what I said before  
11 is applicable in this instance except the second point.  
12 Namely, the complexity of the formula has now been  
13 removed. I think in reasoning together about this subject,  
14 we all must admit that it would be extremely unfortunate  
15 to put a limit on any tax in the Constitution. There are  
16 very few, if any, basic documents which contain a limit  
17 on a tax, and I think it would be very poor to straight-  
18 jacket future legislature, viewing problems we know nothing  
19 with  
20 of/on a particular limit on any tax. I suggest to  
21 Delegate Weidemeyer that if under the greatest stretch  
of imagination you were to limit a tax, he has selected





1 the wrong tax to limit, because it is generally conceded  
2 among tax people that the income tax is the most progressive  
3 of all kinds of taxes. That is to say, if you limit  
4 the income tax to nine per cent, the result inevitably  
5 will be, if additional revenues are necessary, that the  
6 sales tax will have to be increased, that the real  
7 estate tax will have to be increased, and that other  
8 taxes of this kind which bear most heavily on the people  
9 less able to pay will be the result of this action so I  
10 say to you in the greatest of sincerity that this is not  
11 in my judgment a good amendment, and it should be defeated.

12 THE CHAIRMAN: Any discussion?

13 Are you ready for the question?

14 The Clerk will ring the quorum bell.

15 The question arises on the adoption of Amendment  
16 No. 2. A vote aye is a vote in favor of the amendment. A  
17 vote no is a vote against. Cast your votes.

18 Has every delegate voted? Does any delegate  
19 desire to change his vote?

20 The Clerk will record the vote.

21 There being eighteen votes in the affirmative



1 and ninety-three in the negative, the motion is lost and  
2 the amendment fails. The Chair recognizes Delegate  
3 Powers.

4 DELEGATE POWERS: Mr. Chairman, I move the  
5 Committee of the Whole rise and report that it has not  
6 yet concluded consideration of Committee recommendation  
7 SF-3.

8 (Seconded)

9 THE CHAIRMAN: All in favor signify by saying  
10 Aye; contrary, No.

11 The Ayes have it, and it is so ordered.

12 (The mace was replaced by the Sergeant at  
13 Arms.)

14 (Whereupon, at 1:00 p.m. the Committee of the  
15 Whole arose, and the Convention reconvened.)

16 THE PRESIDENT: The Convention will please  
17 come to order. On behalf of the Committee of the Whole  
18 the Chair reports the Committee has had under/consideration  
19 SF-3, that it still has it under consideration and desires  
20 leave to sit again.

21 I have one announcement to make. It was



1 called to our attention several days ago that there were  
2 some typographical errors in the article on the judicial  
3 branch. The erroneous pages have been reprinted. The  
4 pages are trying to substitute the corrected pages in the  
5 copies that are in the delegates desks. They report that  
6 many of the delegates do not have their copy of the  
7 Committee of the Whole Report No. 8 in their desk. If  
8 you will give your copy to your page, he or she will make  
9 the substitution and return it to you.

10 Are there any announcements by Committee  
11 Chairmen that must be made?

12 Delegate Mudd.

13 DELEGATE MUDD: Mr. Chairman, the sub-committee  
14 of the judicial branch dealing with transitory provisions  
15 will meet at 1:15.

16 DELEGATE MORGAN: Mr. Chairman, the Executive  
17 Branch Committee will meet immediately following the  
18 recess of the convention this afternoon for the purpose  
19 of deciding upon our final recommendation as to the  
20 Attorney General proposal.

21 THE PRESIDENT: Delegate Dulany.





1 DELEGATE DULANY: Mr. President, there will be  
2 a very important meeting by the Committee on public  
3 information which will probably take the whole lunch  
4 hour so bring your lunches with you.

5 THE PRESIDENT: Any other announcements?

6 All delegates now present not present at the  
7 roll call earlier this morning may indicate their presence  
8 on the supplementary roll call. The Clerk will record  
9 the supplementary roll call.

10 The Chair recognizes Delegate Powers.

11 DELEGATE POWERS: Mr. President, I move that  
12 we recess until 2:30.

13 (Seconded)

14 THE PRESIDENT: All in favor signify by saying  
15 Aye; contrary, No.

16 The Ayes have it, and it is so ordered.

17 (Whereupon, at 1:04 p.m., the Convention  
18 recessed until 2:30 p.m.)  
19  
20  
21

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1 AFTERNOON SESSION

2 December 5, 1967 - 2:30 p.m.

3 THE PRESIDENT: The Convention will please come  
4 to order. (Roll call) Has every delegate answered roll call?  
5 The Clerk will record the roll call. There being a quorum  
6 present the Convention is in session.

7 Reports of committees. Mr. Clerk. Minority  
8 Report R&P-1(E).

9 MR. QUILLEN: Minority Report No. R&P-1(E) by  
10 Delegate Burgess, Dabrowski, Hostetter, C. Murray and  
11 Weidemeyer of the Committee on Personal Rights & Preamble:

12 A MINORITY REPORT to limit the exercise of the  
13 power of eminent domain by private persons, firms or corpora-  
14 tions, so that Section 9 (B) of the Declaration of Rights  
15 include the following:

16 THE PRESIDENT: The minority report will be  
17 received and distributed. I am sorry to have to inform you  
18 that I learned just a few months ago that one of our desk  
19 clerks, Mr. Dennis, whom all of you know, a long time employee  
20 of the legislature, has had a slight mishap and is in the  
21 hospital at the Naval Academy. I understood it is nothing





1 serious, but as you know, he is not here and that is the  
2 reason. The Chair recognizes Delegate Pullen.

3 DELEGATE PULLEN: Mr. Chairman, I should like to  
4 call attention to the Convention of the presence of several  
5 students of the University of Baltimore with two of their  
6 instructors, Mr. Schering and Dr. Blake. Dr. Blake is the  
7 author of what in my opinion is the finest single book on  
8 the Reconstruction Period and Conventions that has been  
9 printed.

10 While on my feet I would like to call attention  
11 also to the fact that 14 graduates, the president and board  
12 member and three former teachers of that institution are  
13 members of this assemblage. (Applause)

14 THE PRESIDENT: Delighted to have them with us.

15 Are there any other motions or resolutions? If  
16 not the Chair recognizes Delegate Powers.

17 DELEGATE POWERS: Mr. President, I move the  
18 Convention resolve itself into the Committee of the Whole  
19 for the purpose of resuming consideration of the general  
20 orders of the day.

21 (Seconded)



1 THE PRESIDENT: All in favor signify by saying  
2 Aye, contrary No. The Aye's have it; so ordered.

3 The Committee of the Whole will please come to  
4 order.

5 (Whereupon, at 2:40 p.m. the Convention resolved  
6 itself into a Committee of the Whole.

7 (The mace was removed by the Sergeant at Arms.)

8 THE CHAIRMAN: We have under consideration  
9 Committee Recommendation SF-3. Are there any other  
10 amendments to Section 801? The Chair hears none.

11 Are there any amendments to Section 802? I will  
12 take up separately 802, 802-1, and 802-2. At this time  
13 Section 802. Delegate Hanson.

14 DELEGATE HANSON: Mr. Chairman, I have an amend-  
15 ment designated as A to Section 802, which I should like to  
16 offer at this time.

17 THE CHAIRMAN: Pages will please distribute  
18 Amendment A. It will be marked Amendment No. 3. Proposed  
19 by Delegate Hanson, seconded by Delegate Beatrice Miller.  
20 The Chair recognizes Delegate Hanson to speak -- sorry -- the  
21 Clerk will read the amendment.



1 MR. QUILLEN: Amendment No. 3 to Committee  
2 Recommendation SF-3 by Delegates Hanson and B. Miller. On  
3 page two, Section 8.02 titled Assessments in line 6 strike  
4 out the comma and the rest of the sentence in lines 6 through  
5 8, inclusive.

6 THE CHAIRMAN: The Chair recognizes Delegate  
7 Hanson to speak to the amendment.

8 DELEGATE HANSON: Mr. Chairman, this amendment  
9 is one which I think would improve the language in 802. In  
10 the colloquy which occurred with vice chairman of the State  
11 Finance and Taxation Committee last evening and today, I  
12 think it was made quite clear that the dependent clause,  
13 clause which this amendment would strike, which requires  
14 that if classifications are established, that the classi-  
15 fication shall include a classification for agricultural use,  
16 is an unnecessary clause for its constitutional impact.

17 The phrase which immediately precedes it that  
18 there shall be uniform rules pursuant to such classifications  
19 as may be determined by law, adequately on the admission of  
20 the vice chairman of the Committee, covers the ability of  
21 the legislature to retain or change the present Farm Land





1 Assessment Act.

2 The amendment which I have proposed would not  
3 constitute a repeal of the farm land assessment or any way  
4 affect the power of the legislature to deal with the prefer-  
5 ential assessments of farm land or any other class of property  
6 in the state.

7 The clause simply is not needed because without  
8 the clause the full power is given to the General Assembly  
9 to establish such classifications as it sees fit and to  
10 define those classifications as it feels it necessary to  
11 define them for the adequate administration of the tax laws.

12 Now, the Committee in its report points out  
13 that while the Constitutional Convention Commission had  
14 recommended a specific mention in a permissive rather than  
15 mandatory clause of both open space uses and agricultural  
16 uses, that the Committee decided not to include any statement  
17 on open space. The reason it said that it did not make this  
18 conclusion is contained on page three in lines 31 to 42 of the  
19 Committee Memorandum accompanying the recommendation. I  
20 quote, "It is the opinion of the Committee that the General  
21 Assembly already has the power to create a separate classifi-  
cation for this purpose if it wishes to do so and that the



1 inclusion of the quoted language adds no additional power.  
2 The term 'open space' lacks precision. We see great benefit  
3 to the public in preserving open space, but any plan to  
4 facilitate this by special assessment classification will  
5 require careful legislative evaluation and definition so  
6 as to attain the desired end without opening the door to abuse."

7 I and those of us who support this amendment  
8 contend that the exact situation pertains to agriculture.  
9 It is no easier, ladies and gentlemen of this Committee, to  
10 define agriculture than to define open space. In a publi-  
11 cation published by the U. S. Department of Agriculture in  
12 September of this year surveying nationally the preferential  
13 farm land assessments and actions and proposals in all states  
14 where they have arisen and in reviewing specifically the  
15 legislative criteria and the 29 this week administrative  
16 criteria for the assessment of farm land in Maryland points  
17 out that even with these criteria all this does is emphasize  
18 the difficulty of separating bonafide activity in the field  
19 of agriculture from speculative activity or use of agriculture  
20 as a speculative holding operation. It is increasingly  
21 difficult in the administration of such acts to distinguish



1 between one use of agriculture and another as the colloquy  
2 between Delegates Henderson and Case and the response of  
3 Delegate Case to the Chairman's question this morning I  
4 think have clearly revealed.

5 In other words, we should not require that we put  
6 into the Constitution a statement which the General Assembly  
7 in its wisdom at some later date may not wish to be bound  
8 by because it becomes just impracticable to establish the  
9 proper kinds of criteria.

10 I was born and reared in a state in the Southwest.  
11 That state for many years, in fact today, contains in its  
12 Constitution an exemption for homesteaders. This made a  
13 great deal of sense as a legislative matter when my grand-  
14 father came from Illinois and settled on 160 acres of land  
15 and had no money to pay taxes with. It made a great deal of  
16 sense in 1889; it makes no sense at all today and the state  
17 as a consequence or many western states are losing a great  
18 deal of money as a result of a constitutional classification  
19 or constitutional exemption. I believe this committee should  
20 leave the General Assembly free in its wisdom to decide farm  
21 land should be exempted from regular taxation now or if in





1 future it decides farm lands or any other use should not  
2 then be exempted from taxation. The only reason the  
3 committee can adduce in its report for treating farm land  
4 separately is to say it is in a different category. I might  
5 suggest every kind of land is in a different category. The  
6 question arises then does this section which I would remove  
7 from the section, does it reverse the Alsop case? Last night  
8 it appeared it did reverse the Alsop case. This morning it  
9 appears the result is otherwise and it appears it could over-  
10 rule the Alsop case and we are told the section means what  
11 the court says it means. If we remove the section we are  
12 left in exactly the same kind of position.

13 I believe that there are fear questions that per-  
14 tain to this as a limitation upon the legislature which we  
15 should not have. The draft constitution at least used the  
16 word "may" which made the section permissive rather than  
17 mandatory upon the legislature. What we are talking about is  
18 a consitutional mandate for what amounts under the  
19 operation of the present law which it is admitted by the  
20 committee could be retained as its classification and definition  
21 of agricultural use. What we are talking about is a consti-  
tutional mandate for what is under the present law a several



1 million dollar subsidy. I have no objection to subsidies  
2 of agriculture. I do have objection to making a subsidy by  
3 virtue of a tax exemption which other persons are not  
4 entitled to. If we are going to give it, we should give it  
5 by free will of the General Assembly granting it and not by  
6 constitutional mandate.

7 What does it mean at the present time? In a  
8 study recently done by Peter Howes, who happens to be on my  
9 Staff for the U. S. Department of Agriculture, Mr. Howes  
10 discovered that what the meaning of this is is not only to  
11 state the obvious which Mr. Case conceded this morning but  
12 it also points out that in Baltimore County, for example,  
13 the existing operation of this law means that the assessable  
14 base is reduced by \$12.7 million dollars.

15 THE CHAIRMAN: Delegate Hanson, you have two  
16 minutes left, including the question period.

17 DELEGATE HANSON: Thank you, Mr. Chairman.

18 In Montgomery County it means a loss in the  
19 assessable base of \$83.4 million dollars. In Harford  
20 County it means an increase on the property tax rates of  
21 14-cents per hundred dollars in valuation for non-farm



1 owners. In Montgomery and Prince Georges Counties, it means  
2 a similar increase on property tax rates. In Carroll  
3 County, it means a 19-cent increase on the non-farm tax  
4 rate.

5 To give a few examples of the way this tends to  
6 operate at the present time, in my county there is one  
7 tract of land with 164 acres which sold last year for  
8 \$479,000. It was assessed under the law for \$105,680 and  
9 the tax on it was \$462, which is about what I pay on my single  
10 family home on an individual lot.

11 I could give you a whole series of other examples  
12 of the way in which this is subject to abuse at the present  
13 time and certainly, Ladies and Gentlemen, if definitions  
14 of open space are subject to abuse, this is an equally, at  
15 least, subject to abuse and it means the other taxpayers  
16 pay more. It is highly probable as we go out from the  
17 central cities of Baltimore and Washington into the  
18 genuinely rural areas of this State that the ratio of  
19 assessment under this act to the market value of the land  
20 becomes nearly equalized. In fact, there are some tracts  
21 in Carroll County, the Agriculture Department study shows,





1 that are assessed at a higher rate under this Act than they  
2 would have been if they had been assessed on the sale value  
3 as other land in the County under a uniform policy of  
4 assessment. I point this out not to tell you that at this  
5 point we should enact into the Constitution something that  
6 would repeal the inequities but rather to point out we  
7 should leave the Constitution free so that the legislature  
8 can deal with these inequities as it sees fit when it sees  
9 fit to do so.

10 THE CHAIRMAN: Your time has expired, Delegate  
11 Hanson.

12 Delegate Case.

13 DELEGATE CASE: Mr. Chairman, Ladies and Gentle-  
14 men of the Committee, I rise in opposition to the amendment  
15 offered by my good friend, Delegate Hanson.

16 I should say at the outset that he has attempted  
17 to over-simplify the problem in an effort to obtain your  
18 vote.

19 The first point he makes is that the clause is  
20 unnecessary because he said in answer to a question he asked  
21 me last night I stated that the General Assembly could, with



1 the questioned clause eliminated, do exactly the same thing  
2 as it could do with the clause in the section.

3 This, of course, is true but it is only half the  
4 story. The other half of the story is not what the legis-  
5 lature could do but what it would not do. If the clause is  
6 taken out, then there would be no assurance that our farmers  
7 in this State, I mean by that the legitimate farmers, would  
8 be protected. With the clause in, it means that the farmers  
9 will get the protection which they deserve and which they  
10 have asked and which they would receive under this section.

11 The first point is, Delegate Hanson has only told  
12 you one half the story. Remove this clause, protection for  
13 the farmers disappears.

14 The second point that Delegate Hanson makes is  
15 that he is confused by my statement concerning the Alsop case  
16 and whether it has or has not been overruled by the  
17 proposal which the Committee makes. Let me state to him  
18 so that he can understand it because I believe everyone else  
19 in here does, that my statements go to the point that the  
20 result of the Alsop case would be overruled if this section  
21 is adopted as it exists. Put differently, what I am trying



1 to tell you is that the use criteria for farming would  
2 disappear and other criteria which the legislature might  
3 prescribe would obtain --

4 THE CHAIRMAN: You have one minute, Delegate Case.

5 DELEGATE CASE: This means that the legitimate  
6 farmer would be protected under the language we have in the  
7 section and the speculator would not.

8 Now, why has there been a specific provision with  
9 respect to farming and not open spaces? I call the attention  
10 of this House that in 1960, 334,888 votes were cast for a  
11 provision giving farmers preferential tax treatment against  
12 only 123,600 against. An overwhelming majority of the  
13 Court of Appeals had ruled that this was unconstitutional  
14 and the Constitution was amended to restore the preferential  
15 assessment for farming. This matter has been before our  
16 Committee on a number of occasions. Every known farming  
17 organization requests this for the protection of the  
18 legitimate farmer. The Grange, Farm Bureau, State Board of  
19 Agriculture, many numerous farmers have asked this be done.  
20 We think that this section as it is written has a two-fold  
21 effect. First, it protects the legitimate farmer from





1 overburdensome assessments and secondly, it will prevent the  
2 land speculator from making a killing on a law which is not  
3 intended for his benefit.

4 Therefore, because of all these reasons, I urge  
5 you to support the Committee's recommendation.

6 THE CHAIRMAN: Any other Delegate desire to speak  
7 in favor of the amendment?

8 Delegate Adkins.

9 DELEGATE ADKINS: Mr. Chairman, I should like first  
10 to ask Delegate Hanson, the Sponsor, a couple of questions  
11 if he will yield.

12 THE CHAIRMAN: He doesn't have the floor right  
13 now to yield. Let me see if somebody wants to speak in  
14 favor of the amendment first.

15 Does anyone else desire to speak in favor?

16 Delegate Scanlan.

17 DELEGATE SCANLAN: I reluctantly arise to speak  
18 in favor of the amendment. While I don't wish to see  
19 legitimate agricultural interests of this State  
20 penalized, I cannot stand by in my County and some other  
21 suburban Counties and see the abuses to which the



1 agricultural exemption has been put. I had hoped in his  
2 answers to the questions put to him, especially this morning,  
3 that the spokesman for the Committee Report would have given  
4 answers that would have reassured myself and others in my  
5 County that the purpose of the proposals was not only to  
6 repeal -- overrule, I should say -- the poorly decided Alsop  
7 case in which the Court of Appeals took a very narrow and  
8 unjustified view of the legislative power and administrative  
9 power to implement classification for assessment purposes  
10 but also to make it clear that the General Assembly would  
11 have the broadest possible power in making classifications  
12 which could segregate the legitimate farming enterprise  
13 from the farming enterprise used as a mask for speculative  
14 profit and investment. The specific question that  
15 disturbed me, or more precisely, the answer to which  
16 disturbed me was Delegate Case's reply to the inquiry put  
17 to him by Delegate Henderson in which he said under the  
18 situation where one man farms land was a farmer, but he  
19 was hanging on to the farm in the hope he could sell it at  
20 a profit a few years hence, in an era of rising land  
21 values, would be treated the same or no differently from the



1 man who invested in the farm and held it for the same  
2 purpose.

3 I have no objection to that purely hypothetical  
4 situation. But what I wanted to know was, if a man whose  
5 primary source of income was the purchase and sale of real  
6 estate invested in the farm, farmed it but for the purpose  
7 of selling it at a profit, could such a person be treated  
8 differently by way of classification either administratively  
9 or statute-wise for the purposes of applying proposed  
10 Section 802?

11 To my dismay, I gather such a person could not  
12 be treated differently and if he cannot be treated  
13 differently, then I am supporting the Hanson Amendment. If  
14 he can be treated differently and the Chairman of the  
15 Committee can reassure us on behalf of the Committee, I  
16 think there will be some votes in the urban area he would not  
17 otherwise have.

18 THE CHAIRMAN: Any other Delegate desire to speak  
19 in opposition to the amendment.

20 Delegate Macdonald.

21 DELEGATE MACDONALD: Mr. Chairman, I favor the





1 amendment for the reason that the Committee Report mandates  
2 this farm assessment. I can see advantages to the provisions  
3 relating to the farm assessment. It will help preserve  
4 open space. It will assist farmers to farm economically.  
5 But I do not believe that we should mandate this special  
6 treatment in the Constitution. There are disadvantages to  
7 this farm assessment law.

8 It does result in some cases in inequalities.  
9 I have some figures here from Montgomery County. Here is  
10 a farm that sold in 1965 and at that time it sold for  
11 \$479,000 and the taxes on it were \$462.

12 I have a long list of these. Whenever we grant  
13 a special break to one tax group, the other taxpayers  
14 must pick up the slack. In this case, it acts in two ways:  
15 It prefers farmers over the homeowners in your own County.  
16 It has another effect which is in the distribution of the  
17 money under the equalization program. Those areas which are  
18 under-assessed get more money from the State under the  
19 equalization program which means that the other taxpayers  
20 must pick up the slack. This can only mean that urban  
21 areas such as Baltimore City must pay more in the way of



1 taxes.

2 THE CHAIRMAN: You have one-quarter minute,  
3 Delegate Macdonald.

4 DELEGATE MACDONALD: I am not opposed to the  
5 farm assessment program or the farm assessment law but I do  
6 believe it should be left up to the General Assembly. I  
7 think the proposal made by the Committee here is opposed to  
8 the one-man one-vote principle. I think it would be very  
9 bad to mandate it in the Constitution and I am in favor of  
10 the amendment.

11 THE CHAIRMAN: Does any Delegate desire to speak  
12 in opposition to the amendment?

13 Delegate Sherbow.

14 DELEGATE SHERBOW: Mr. Chairman, Ladies and  
15 Gentlemen, I would plead with this Convention, this Committee,  
16 to be practical. If ever there was a time to be practical,  
17 this is it. You must bear in mind that in the State of  
18 Maryland, there is a group of farmers tilling the soil, many  
19 of them in a marginal way, without hope of any form of  
20 tremendous gain, who want to be left alone to do the work  
21 that they are doing. There are others who are waiting just



1 as everybody else is for the day when lightning may strike  
2 and they may make more money.

3 But you must bear this in mind. That this group  
4 of farmers, and they are many throughout this State, asked  
5 the legislature to pass a law which would save them from  
6 having to get rid of their properties and dump them on the  
7 market into the laps of these speculators at prices below  
8 what they were worth because they couldn't pay the taxes  
9 that were involved because of the fact that they were in  
10 areas where taxes and assessments were increasing.

11 Then after the litigation and they found them-  
12 selves with a law that was invalid, they had a constitutional  
13 amendment prepared, went to the legislature, seven years  
14 ago the people spoke on this issue and by an overwhelming  
15 majority they said this is a form of classification that is  
16 proper.

17 What is the next thing that has happened? Only  
18 this: At all the hearings before our Committee, I must tell  
19 you that for once I felt that the lack of interest in the  
20 Constitution and the Constitutional Convention was belied  
21 because this was one time when the farmers came and with





1 one voice they said we have this in the Constitution, we are  
2 entitled to it, don't make it impossible for us to till our  
3 farms and to operate them because you want to get at the  
4 land speculators.

5 THE CHAIRMAN: You have one-quarter minute,  
6 Delegate Sherbow.

7 DELEGATE SHERBOW: The way to get to the land  
8 speculators is by proper enactment of the General Assembly.  
9 By proper administration of the State Tax Commission. It  
10 is the way to reach that problem.

11 But I urge you to be practical and don't let all  
12 of these farmers and farming organizations feel that the  
13 law that has been approved so overwhelmingly and put in the  
14 Constitution has now been taken out. I urge you to vote  
15 against this amendment and support the Committee's position.

16 THE CHAIRMAN: The Chair recognizes Delegate  
17 Hanson.

18 Do you yield to a question of Delegate Adkins?

19 DELEGATE HANSON: Yes, Mr. Chairman.

20 THE CHAIRMAN: Delegate Adkins.

21 DELEGATE ADKINS: I should like to ask Delegate



1 Hanson if he believes in fact that all farm land exemptions  
2 should be eliminated as a matter of law?

3 THE CHAIRMAN: Delegate Hanson.

4 DELEGATE HANSON: No.

5 THE CHAIRMAN: Delegate Adkins.

6 DELEGATE ADKINS: In view of the income  
7 discrepancies that you cited in your statement, how, then,  
8 can you justify any continuation of any farm land exemption?

9 THE CHAIRMAN: Delegate Hanson.

10 DELEGATE HANSON: It is damned hard!

11 THE CHAIRMAN: Delegate Adkins.

12 DELEGATE ADKINS: Is it not fair to say, then,  
13 you are advocating a continuance simply because you are not  
14 prepared in the face of this Assembly to face up to the hard  
15 fact that in fact your position is there should be no farm  
16 land exemption?

17 THE CHAIRMAN: Delegate Hanson.

18 DELEGATE HANSON: No, my position is that even  
19 though it is difficult to meet this problem, that there are  
20 valid reasons for obtaining a different classification for  
21 assessment for farm land if it is possible to identify



1        bona fide farmers and give them a tax break and that there  
2        are other classification systems for the classification of  
3        property for taxation which I favor, not, correction,  
4        including agriculture but not limited to agriculture and  
5        although I favor some of those perhaps even more than  
6        agriculture, I am opposed to mandating any of them in the  
7        Constitution.

8                THE CHAIRMAN: Delegate Adkins.

9                DELEGATE ADKINS: May I ask you, Delegate Hanson,  
10       if you believe it is possible under the present proposed  
11       Committee Report to write a statute which would cure the  
12       abuses about which you and many other Delegates are concerned  
13       in connection with this farm land exemption?

14               THE CHAIRMAN: Delegate Hanson.

15               DELEGATE HANSON: I think it is more possible for  
16       the legislature to write such a law curing the abuses under  
17       the section as I would amend it than I think it is possible  
18       for them to do it under the section as it now stands which  
19       contains the mandatory phrase and contains the phrase "agri-  
20       cultural uses" which I think refuzzed something the first  
21       section had unfuzzed.





1 THE CHAIRMAN: Delegate Adkins.

2 DELEGATE ADKINS: At the risk of getting the  
3 answer I fully expect, may I repeat my question.

4 Do you think it impossible to do that under the  
5 language of the Committee Report?

6 THE CHAIRMAN: Delegate Hanson.

7 DELEGATE HANSON: I am not certain.

8 THE CHAIRMAN: Delegate Rosenstock.

9 DELEGATE ROSENSTOCK: Mr. Chairman, Fellow Dele-  
10 gates, I rise to oppose this amendment.

11 Since college, I have been operating the family  
12 farm . Today we pay twenty-five percent of our gross income  
13 to pay State and County taxes, the highest value of land  
14 for purpose of assessment is \$150.00 an acre down to waste  
15 land, the bed of the Monocacy River of \$25 an acre.

16 I would like to know what apartment houses in  
17 Montgomery County pay 25 percent of their gross income for  
18 taxes in that County.

19 We are having a difficult time in our County with  
20 the speculators from Washington and Montgomery County selling  
21 their properties there at inflated prices and buying up farms



1 in our County to replace them without any tax problem  
2 because it is purely in a great many cases the sale of the  
3 land was caused by condemnation or threat of condemnation.  
4 They have been coming up and buying farm land in place of  
5 that which is a replacement without any federal taxes at  
6 this time and paying \$2,000 to \$3,000 an acre for it.

7 Yet we are disturbed that these speculators are  
8 being protected presently by the assessment laws. We agree  
9 with our brothers from Montgomery County that the  
10 speculators should not be taken care of under the guise of  
11 bona fide agricultural operations. Yet, at the same time,  
12 should we destroy the fine agricultural structure that we  
13 have in the State of Maryland in order to get rid of, let's  
14 say, 500 speculators from Washington and the District of  
15 Columbia?

16 THE CHAIRMAN: Any other Delegate desire to speak  
17 in favor of the amendment?

18 Delegate Beatrice Miller.

19 DELEGATE B. MILLER: I would give you that no  
20 one here would deny aid and encouragement to the farmer. I  
21 would also say that less people are against the farmers than



1 are against sin, if you look at last night's vote on lottery.  
2 I would point out further, it does not surprise me a  
3 constitutional question as aid to the farmer, people in this  
4 State voted overwhelmingly in favor of any type of amendment  
5 that would seem to aid the farmers.

6           However, three percent of Maryland's work force  
7 today are farmers. This is a small group, and while we all  
8 want to help them, I would say putting such a provision into  
9 the Constitution makes a very attractive bid to speculators  
10 to lobby in the legislature similar to the kind of lobby  
11 activity they carried on before the Committee and would  
12 seem to have overwhelmed the Committee and remove from the  
13 legislature any initiative to look for new sources and new  
14 forms of aid for the farmers. It may very well be that  
15 different types of aid will be necessary if we are to keep  
16 the few remaining farmers in Maryland.

17           I would submit also that the present Constitutional  
18 proposal is a limiting one in that it limits aid to the  
19 farmer in terms of proposing specifically aid on the  
20 property tax. Other types of taxes we will see in the future  
21 will probably be much greater than the property tax is today





1 and can be as severely dangerous to the farmer, yet if this  
2 type of aid remains in the Constitution as farm relief, the  
3 General Assembly may be reluctant to move in other areas  
4 in the future.

5 I would further point out that much of the land  
6 in Montgomery County is not held by Montgomery County people  
7 but is held by absentee land owners by people, by out-of-  
8 State syndicates which range from Texas to North Carolina  
9 that Maryland is now in the process of giving them, if you  
10 will, a free ride.

11 I would suggest that it is time to plug this  
12 loop hole. We talk about equalization of taxes and  
13 equalization of sharing the burden and this is a very  
14 accepted thing in our County. We are perfectly willing to  
15 do this. But we need your help in order to do it.

16 Don't tie our hands from raising money from our  
17 own sources and allowing money to go out of the State. Help  
18 us to raise the money from the land speculators instead of  
19 the home owners in Montgomery County.

20 THE CHAIRMAN: Any other Delegate desire to  
21 speak in opposition to the amendment?



1 Delegate Wiedemeyer.

2 DELEGATE WIEDEMAYER: Mr. President and members  
3 of the Convention, even though the Committee went against me  
4 yesterday, I must be with them all today.

5 Mr. President, there have been many things  
6 pointed out by Delegates Case and Sherbow in favor of the  
7 Committee Recommendation 802 as written, but in addition  
8 tha that, there is this particular circumstance. The  
9 people of Maryland considered it when they voted over-  
10 whelmingly to give some special tax treatment to assessment  
11 of farms. The first thing I believe as a rule the farmers  
12 of Maryland, as Delegate Rosenstock said, are overtaxed  
13 already in proportion to the earnings the farmers will  
14 produce.

15 There is this, that if these farmers have their  
16 assessment raised to the point where they are forced to sell  
17 to speculators, what happens? As soon as a subdivision goes  
18 on one farm five or ten miles away from that subdivision the  
19 assessors get the idea that farms down the line are all  
20 worth the same value. If the farmers are forced to sell,  
21 it means an onrush of speculators and some of these



1 speculators are buying a \$100,000 place or \$50,000 place  
2 with \$5,000 down. Either the farmer is carrying the load  
3 on the mortgage or else some bank or building association  
4 is financing it.

5 If the speculator can't make it on the farm and  
6 the farm is not ready for subdivision, the speculator goes  
7 bankrupt or the place is sold on mortgage sale and your  
8 banks and banking institutions in which you all invested  
9 your funds stand to take the loss. Those are the things that  
10 haven't been brought out. I thought I ought to bring them  
11 out to you because it is not only the farmer we are saving  
12 in this process, we are helping to save ourselves.

13 THE CHAIRMAN: Delegate Chabot.

14 DELEGATE CHABOT: Mr. Chairman, the legislature  
15 acted in the 1950's without a constitutional mandate to try  
16 to meet the problem of the farmers and as Delegate  
17 Wiedemeyer has aptly pointed out, fought the problem of all  
18 of us. It acted not only without a constitutional mandate  
19 to act but apparently according to the Court of Appeals  
20 in the face of a constitutional prohibition to act.

21 Now, what would be the situation with that





1 background if this amendment were adopted? We would have  
2 a provision in the Constitution which still has the effect  
3 of overruling, I submit, the original Gayle's case which  
4 caused the people to approve an amendment in 1960 and would  
5 overrule the Alsop case. It would free the legislature to  
6 act to meet the problem and I am sure that this legislature  
7 will do its very best to meet the problem within the  
8 limitations that the Constitution imposes upon them.

9 What is the situation if this amendment is  
10 defeated. Are any limitations imposed upon the legislature?  
11 Can the legislature be free to meet the problem of the  
12 farmers who have land that ends up being worth more for  
13 speculative purposes to the builder than it is for farming  
14 purposes? I suggest to you most reluctantly that the answers  
15 that have been provided to us this morning have indicated  
16 quite clearly that the legislature cannot act both to meet  
17 the needs of the farmers and also to stop the speculators  
18 from getting a windfall from riding in on the backs of the  
19 farmers. I suggest you adopt the amendment so that the  
20 legislature can get on with the job of helping the farmers,  
21 helping all of us because we all have a stake in their



1 interest, without giving this unneeded windfall to the  
2 speculators.

3 THE CHAIRMAN: Are you ready for the question?  
4 Delegate Adkins.

5 DELEGATE ADKINS: Mr. Chairman, I take it this  
6 Convention is face to face perhaps for the first time with  
7 the fact Maryland is in fact a divided State. It is  
8 divided between the rural sections on its one hand and the  
9 heavily urbanized areas on the other. It is divided by the  
10 fact that what is good for rural Maryland is not  
11 necessarily good for urban Maryland.

12 I suggest to this Convention that its job, the  
13 exercise of its dedicated responsibility, is to try to find  
14 that compromise between those two differences of interest  
15 which best serve all the people. The sponsor of this amend-  
16 ment in response to a question has conceded that at this point  
17 at least in history he would not recommend the abolition of  
18 the farm land exemption.

19 I think it is generally the feeling of Delegates  
20 to this Convention as I discussed it with them that they  
21 feel farm lands and farmers, pursuit of agriculture, basic



1 as it is to our welfare, is entitled to some form of  
2 protection.

3 The thing that concerns many Delegates is the  
4 fact that there are abuses in this exemption and with that  
5 I completely agree. But I suggest to the Delegates that  
6 at the same time that we are divisive we are also faced  
7 with the fact that the balance of power has shifted from  
8 rural Maryland to urban Maryland. I suggest to the Dele-  
9 gates further that with that shift of power has come a  
10 situation when urban Maryland for the first time must show  
11 the real restraint that we are entitled to have them  
12 exercise if in fact they are to be worthy of this trust which  
13 is being imposed on them.

14 We are not asking that the abuses should be  
15 continued. I am not arguing personally for the benefit of  
16 speculators. I will interstitially say to you that if you  
17 eliminate the farm land exemption you will in essence be  
18 playing into the hands of the speculators because to that  
19 extent you will be forcing rural Maryland to sell its land  
20 now devoted to open spaces, if you will, a term which  
21 seems to be popular in urban Maryland, it will be forcing





1 rural Maryland to sell or the farmers of Maryland to sell  
2 their land by economic necessity to the speculator who can  
3 hold it for future profit.

4 Unless this is in the Constitution, and in view  
5 of the fact coming events cast their shadows before I am  
6 thinking of the next amendment which I am quite confident  
7 will be presented if this amendment is defeated. Unless  
8 you mandate this to at least consider the plight of the  
9 farmer, the pressure on urban representatives to cure the  
10 ills will be such that the easy answer to the problem will  
11 be to eliminate the exemption.

12 THE CHAIRMAN: You have one-quarter minute, Dele-  
13 gate Adkins.

14 DELEGATE ADKINS: Eliminate the exemptions and  
15 aid the developer. The legislature under this amendment  
16 under the Committee Report can cure the ills of speculation.  
17 Unless it is mandated and continued in the Constitution you  
18 can sure correct the ills, you can also do great injustice  
19 to rural Maryland. Remember you are now in the majority.  
20 You of the urban areas, exercise that majority with tolerance.  
21 Defeat this amendment, support the Committee Report.



1 THE CHAIRMAN: Any other Delegate desire to speak  
2 in favor of the amendment?

3 Delegate Hardwicke.

4 DELEGATE HARDWICKE: Mr. Chairman, I think that  
5 the problem with the Committee Report can be pointed up very  
6 clearly.

7 If this Committee will look carefully at lines  
8 seven and eight on page 2 under Section 8.02, I would like  
9 you to do it with me just a moment, the mandate is to  
10 property "devoted to agricultural use". In other words, it  
11 doesn't make any difference who owns the property. It  
12 doesn't make any difference why he is holding the property.  
13 It doesn't make any difference whether he is speculating  
14 whether he has a gold mine there. It doesn't make any  
15 difference whether he is a farmer or who he is, as long as it  
16 is devoted to agricultural use there is nothing the legis-  
17 lature can do about it under this language. Even though the  
18 phrase as prescribed by law follows, Delegate Case conceded  
19 in his answer to questions that the prescription by law could  
20 not make any difference as long as the land was used for  
21 agricultural purposes.



1           So I submit to you Ladies and Gentlemen of the  
2 Committee that this language plays directly into the hands  
3 of the speculators by permitting the speculator to use it  
4 for agricultural purposes, get the agricultural treatment,  
5 and yet hold land which is valuable many multiples of times  
6 for speculative purposes and not pay the taxes on it. By  
7 not putting this language into the Constitution, we permit  
8 the legislature to have flexibility to deal with the problem.  
9 That, I submit, is the way it ought to be.

10           THE CHAIRMAN: Delegate Koger.

11           DELEGATE KOGER: Mr. Chairman, I would like to  
12 oppose this amendment. I believe that we should extend to  
13 the real legitimate farmer a helping hand at this time. As  
14 Delegate Adkins stated, there has been a shift from the  
15 rural areas to the cities and sometimes this is something  
16 we should dread and perhaps it may be because the farmer has  
17 not received the consideration he should have received.

18           I do believe there are real farmers who are small  
19 farmers who should be assisted in this matter. I do believe  
20 that the General Assembly in its great wisdom will be able  
21 to work out and determine some measure for weighing the





1 value of farm lands and determine the people who are  
2 supposed to be farmers.

3 I don't think this Convention would go wrong to  
4 not in this particular instance look out for the people who  
5 use agricultural uses and I do hope you will defeat this  
6 amendment.

7 THE CHAIRMAN: any other Delegate desire to speak  
8 in favor of the amendment?

9 Delegate Marion.

10 DELEGATE MARION: I don't know anything about the  
11 problems of speculation in Montgomery County. I don't hold  
12 myself out to be an expert on taxes. Heaven knows I have  
13 enough trouble paying my own. I don't pretend to be an  
14 expert on agriculture. I do know that I don't look forward  
15 to the time when those of us in the urban areas, Delegate  
16 Malkus said here several weeks ago, would have it eat  
17 bricks and cement. But it seems to me that it is just  
18 basically wrong to put into the Constitution a special  
19 tax break for any taxpayer or any class of taxpayers. I  
20 submit that this is something which ought to be left to the  
21 General Assembly to determine as a part of the overall tax



1 agricultural property to throw the baby out with the bath  
2 water by denying the exemption entirely. So, we will give  
3 our friends from the rural areas and Mr. Case one last  
4 chance to show their good faith.

5 I ask Mr. Case whether on behalf of his Committee  
6 would either accept the following amendment or state to this  
7 Convention that the proposal as is now before the Committee  
8 of the Whole in 8.10-2 permits and intends the following.

9 THE CHAIRMAN: Delegate Scanlan, Delegate Case  
10 does not now have the floor to yield it. When he does have  
11 the floor, I will permit you to ask him the question.

12 DELEGATE SCANLAN: Let me put it in the form of  
13 argument. I, for one, would recede from my support of the  
14 amendment my opposition to the Majority's proposal if that  
15 proposal could either be read implicitly to include the  
16 following or expressly by way of amendment to include the  
17 following: At the end, to add: "Provided that classifications  
18 may be made which are based on the principal source of  
19 income or upon the principal occupation of the owner of  
20 agricultural property." Short of that, I suggest that their  
21 good faith is in question and not ours from the urban areas.



1 policy of the State and that we should not foreclose the  
2 issue here and now in a Constitutional Convention.

3 Delegate Case and Delegate Sherbow both alluded  
4 to the constitutional amendment which passed in 1960 but as  
5 I understand that constitutional amendment, it did not  
6 compel this tax advantage for the farmer in the Constitution.  
7 All it did was to remove a pre-existing roadblock and allow  
8 the legislature to act in this area. If you adopt this  
9 amendment as Delegate Case and his presentation admitted,  
10 the legislature would have that authority, would have the  
11 authority to do what he seeks to do in this Report in the  
12 Constitution.

13 I say we ought not to go farther than that  
14 constitutional amendment of 1960 and compel something which  
15 it did not compel in the Constitution.

16 I urge you to support the amendment.

17 THE CHAIRMAN: Delegate Fox.

18 DELEGATE FOX: Mr. Chairman, Ladies and  
19 Gentlemen of the Committee, I suppose this debate this after-  
20 noon proves that no one is changed by argument because I  
21 heard what Delegate Case said and Delegate Sherbow and I





1 thought Delegate Case made a very clear explanation and  
2 said exactly the opposite from what Delegate Scanlan  
3 evidently understood and exactly the opposite from what  
4 Delegate Chabot and Delegate Hardwicke understood.

5 If I understood his language and if I understand  
6 this proposition, this will now enable the General Assembly  
7 to prescribe by law what are lands devoted to agriculture,  
8 which is exactly what the Alsop decision said they could not  
9 do. This enables the General Assembly to distinguish between  
10 the farmer and the speculator.

11 This is an important matter. In Virginia they  
12 do not have this same assessment proposition with regard to  
13 farm land and if I may be permitted to refer to a  
14 governmental publication, perhaps prepared by Mr. Hanson's  
15 associate also, Virginia's County is somewhat similarly  
16 situated. Fairfax County on the other side of Washington,  
17 they do not have the benefit of the farm land assessment  
18 Maryland has. Just reading a paragraph from this publication,  
19 Taxes of the Rural-Urban Fringe, a case study of Fairfax  
20 County: "In relation to farm income, taxes on farms in  
21 Fairfax County appear high. 1959 Census of Agriculture



1 reported the average farm in Fairfax County produced \$7,000  
2 worth of farm products or about \$55 per acre. This does  
3 not suggest a rich farming community. The average farmer  
4 would probably have difficulty paying taxes such as these  
5 in Fairfax County out of farm income alone."

6 I submit the average farmer in Maryland has a  
7 hard time paying his taxes out of farm income alone. If  
8 you allow his assessments to go up as the land speculator  
9 moves in and causes the price of land to go up, you are  
10 going to run him off the farm completely. This is an  
11 important issue to the farm counties of Maryland and I urge  
12 you to support not only this amendment but the one which  
13 will follow it and will try to gut the proposition also by  
14 changing the "shall" to "may" and to support the Committee's  
15 recommendation throughout.

16 THE CHAIRMAN: Any other Delegate desire to speak  
17 in favor of the amendment?

18 Delegate Scanlan.

19 DELEGATE SCANLAN: I assure my friends from the  
20 rural area that I have no desire in eliminating the abuses  
21 which have grown up in connection with the purchase of



1 THE CHAIRMAN: Delegate Churchill Murray.

2 DELEGATE C. MURRAY: Mr. Chairman, Fellow Dele-  
3 gates, at least one thing has been overlooked that has not  
4 been emphasized here. That is the plight of the farmer is  
5 due primarily to his low income in respect to his invest-  
6 ment - his low income in respect to his expenses.

7 I don't know a harder problem to solve because  
8 of such complete justice in what each Delegate has said. I  
9 do know this: That if you want to keep the farmers on the  
10 farm, you have got to find some solution for this. I do  
11 know that it would be most unfortunate if we have to return  
12 to the farms, to the farming neighborhoods, and say to them,  
13 we have provided that the legislature can give you relief  
14 but we have taken out of the Constitution the positive  
15 assurance that you have previously had.

16 I find it hard to speak upon this because there  
17 is so much injustice in the case of the speculators and  
18 it is so extremely hard to write anything that will protect  
19 the State against the speculators. But I think that we have  
20 got to find a solution to this better than that of taking  
21 out what the farmer has had and putting in a merely





1 permissive proviso.

2 THE CHAIRMAN: Any other Delegate desire to speak  
3 in favor of the amendment?

4 Delegate Bard.

5 DELEGATE BARD: Mr. Chairman, I don't know when  
6 I have given more thought to a proposal than this particular  
7 one. I have long been concerned about the plight of the  
8 farmer. Believe it or not, in early days, I spent most of  
9 my working years on the farm. But in thinking this whole  
10 thing over, I have also been concerned about the plight of  
11 the aged and the indigent in our urban centers, people who  
12 are holding on to their household by a sheer breadth of  
13 many considerations. I would wager if we added up those  
14 in the latter category who are aged and indigent, they would  
15 add up to those farmers who are meeting with this plight.

16 It seems to me if we are going to have special legislation  
17 in one area within our Constitution, we certainly ought to  
18 add it in this other area.

19 I believe there are ways to deal with the plight  
20 of the farmer. I for one believe that we ought to keep as  
21 many of the small farmers who are working hard to eke out a



1 living where they are; bringing them into the city will  
2 certainly compound problems both of the city and of the farm.  
3 But I don't think this is the way out any more than that  
4 it is the way out for the aged and the indigent in the urban  
5 centers to write into the Constitution a proposal of this  
6 kind.

7 I think we are going to have to work at it at  
8 both ends. What disturbs me even more is if this special  
9 legislation gets into the Constitution for the farmer who  
10 is in trouble, it in turn will compound the problem of the  
11 aged and the indigent who, I might add here, has the  
12 speculator at his door, too. There are many here who know  
13 people in this category who are holding on to their house-  
14 holds really day by day by sheer tenacity. What are we  
15 going to do about this group? Wouldn't it be compounded if  
16 this whole ball of taxation falls against them because of  
17 some of the issues that were clarified with questions asked  
18 of Mr. Case? For this reason, I am going to support the  
19 amendment.

20 THE CHAIRMAN: Delegate Clagett.

21 DELEGATE CLAGETT: Mr. Chairman, Ladies and



1 Gentlemen of this Convention, it is with great reluctance  
2 that I rise to state my position and ask that you carefully  
3 consider it for a moment with me.

4 Because I represent a class of farmer in the  
5 State of Maryland which is somewhat different from the broad  
6 picture that comes to mind as the word "farmer" is used.

7 I must confess to a very personal and deep  
8 interest in this subject matter, one which really is almost  
9 a matter of survival. Twenty years ago, I inherited  
10 approximately 650 acres of land, the tax on it at that time  
11 was \$800. I am now paying approximately \$5,000 per year  
12 in taxes both by way of the improvements upon that property  
13 as well as the increase in the assessment on the value of  
14 the land itself.

15 It would be impossible in the limited time which  
16 I have to answer each of the questions which have been asked  
17 so I make no plea of eloquence but I try to answer the  
18 questions.

19 Delegate Scanlan, I do not derive the principal  
20 sources of my income from this farm because I am in Prince  
21 Georges County, where the practice of law has been a





1 profitable one, well in excess of that from the farm  
2 operation. However, this farm has moved forward. It was  
3 principally devoted to tobacco a few years ago when we were  
4 raising approximately 150 acres of tobacco. Now that  
5 tobacco base is 50 acres.

6 Diversification has been absolutely necessary in  
7 order to survive. Therefore, have come the raising of  
8 thoroughbred horses, of cattle, and other grains.

9 I say to you that in the course of a year there  
10 are over 500 persons with whom I have no personal acquaint-  
11 ance other than that which is formed at the time they come  
12 to visit this place who come there because they are interested  
13 in it and want to see it continue as it is. They come on  
14 garden tours, they come individually, they come merely  
15 because they are interested in horses --

16 THE CHAIRMAN: You have one-half minute.

17 DELEGATE CLAGETT: -- interested in the tobacco  
18 itself. I say to you if this recognition in the Constitution  
19 is removed, if the legislature is not able to deal with each  
20 of us who are devoted to agricultural purposes in a way that  
21 can preserve us, we will as you attempt to eliminate the



1 speculator be sacrificed and go down the drain as well.

2 THE CHAIRMAN: Your time has expired, Delegate  
3 Clagett.

4 DELEGATE CLAGETT: From the walls have come  
5 whispers, I say to you the whispers are dying and will fade  
6 away if you do not include this provision in the Constitution.

7 THE CHAIRMAN: Any other Delegate desire to speak  
8 in favor of the amendment?

9 Delegate Chabot.

10 DELEGATE CHABOT: Mr. Chairman, Delegate Scanlan  
11 asked the question before, an important one, many of us are  
12 quite concerned about it, I will yield the remainder of my  
13 time to Delegate Case so that he may answer it.

14 THE CHAIRMAN: You have no time to yield to Dele-  
15 gate Case. The Chair will recognize Delegate Case at the  
16 proper time.

17 Does anyone desire to speak in favor of the amend-  
18 ment? The Chair recognizes Delegate Case.

19 DELEGATE CASE: Mr. Chairman, Ladies and Gentle-  
20 men of the Committee, first, let me say that inadvertently I  
21 have been misquoted here today by Delegate Hardwicke and



1 others and I would like to set the record straight in this  
2 final speech before you vote so that at least you know  
3 exactly where each of us stands.

4 First, the proposed amendment by the Committee  
5 will reverse or change the result in the Alsop case, thereby  
6 permitting the General Assembly to establish criteria other  
7 than the use of the land in establishing whether the farm  
8 assessment shall carry.

9 Secondly, the Hanson amendment will do no more  
10 than this. The Hanson amendment, it is suggested, will  
11 close loop-holes, will stop abuses. I say to you with all  
12 the sincerity that I can command that the Committee's  
13 recommendation will do exactly the same thing. There is no  
14 difference between the Hanson amendment and the Committee  
15 amendment in this area.

16 Now, thirdly, in answer to Delegate Scanlan's  
17 point, I should read to you what I think would be proper  
18 statutory language if the Committee recommendation is  
19 passed. I would write, if I were writing the statute, the  
20 following:

21 The General Assembly hereby declares it to be





1 the general public interest that farming be fostered and  
2 encouraged in order to maintain a readily available source  
3 of food and dairy products close to the metropolitan areas  
4 of the State, to encourage the preservation of open spaces  
5 as an amenity necessary to human welfare and happiness, and  
6 to prevent the forced conversion of open spaces to a more  
7 intensive use as a result of economic pressures caused by  
8 the assessment of land at a rate or level incompatible with  
9 the practical use of the land for farming. The State  
10 Department of Assessments and Taxation shall establish  
11 criteria for the purpose of determining whether lands which  
12 appear to be actively devoted to farm or agricultural use  
13 are in fact bona fide farms and qualified for the assessment  
14 under this section. Such criteria shall be promulgated in  
15 the rules and regulations which may include but shall not be  
16 limited to the following:

17 First, the business activities of the owner on  
18 and off the subject property.

19 Secondly, the zoning applicable to the subject  
20 land.

21 Thirdly, the past use of the land, including its



1 soil bank provisions.

2 Fourth, the productivity of the land.

3 Fifth, the ratio of farm or agricultural use as  
4 against other uses of the land.

5 I answer clearly and unequivocally to Delegate  
6 Scanlan that one of the criteria could and certainly should  
7 be the business activity of the owner off and on the land.

8 THE CHAIRMAN: Any further discussion?

9 Delegate Dulany.

10 DELEGATE DULANY: Mr. Chairman, and Fellow Dele-  
11 gates, I would like to speak in opposition to the amendment.

12 I think most of the points have been made but I  
13 would like to make three points:

14 First, in the assessment of any farm, the dwelling  
15 house and lot around the dwelling house are assessed at its  
16 market value for that purpose to the farmer, so he does pay  
17 the same tax as other residents in the County on his dwelling  
18 house.

19 Secondly, the legislature has recently enacted a  
20 capital gains tax, so to that extent anyone making a  
21 substantial profit on his farm is taxed on the gain.



1           Finally, I would like to say we have, I have seen  
2 personally many experiences in our County, we have a serious  
3 problem when a a farm passes in the administration of estates.  
4 Many times, there are substantial Federal Estate taxes as  
5 well as Maryland State and Inheritance taxes to pay.

6           We may have a farmer who has earned \$5,000 to  
7 \$10,000 a year income on his farm and when he dies, the farm  
8 is appraised at \$150,000 or \$200,000, although it is intended  
9 to be continued for farming purposes, many times the family  
10 has to borrow money against the farm to pay inheritance and  
11 estate taxes.

12           I want you to realize the farmers and people in  
13 the County do pay taxes, a substantial amount of taxes. I  
14 urge you to defeat the amendment.

15           THE CHAIRMAN: Delegate Morgan.

16           DELEGATE MORGAN: Mr. Chairman, I rise in  
17 opposition to the amendment. Does somebody want to speak in  
18 favor of the amendment?

19           THE CHAIRMAN: The Chair inquired - there were  
20 none.

21           Delegate Hanson, do you desire to speak again?





1           DELEGATE HANSON: Just one minute, Mr. Chairman.

2       To point out that while Mr. Case's statement of what he would  
3       prefer to be in the statute may be an admirable one, the fact  
4       before us is, Mr. Case is not writing the statute but that  
5       we, Mr. Case among us, are writing the Constitution. What  
6       we need in the Constitution is the maximum amount of  
7       flexibility for the legislature to deal with what those of  
8       us on both sides of this particular issue agree is a very  
9       serious problem of extensive abuses of law as it now stands.

10          THE CHAIRMAN: Delegate morgan.

11          DELEGATE MORGAN: Mr. Chairman, I don't want this  
12       Committee of the Whole to be under the impression that all  
13       Delegates from Montgomery County are in favor of this amend-  
14       ment.

15          Now it seems to me, there are a lot of people that  
16       moved into Montgomery County from other places. They moved  
17       into Montgomery because Montgomery County was what it was.  
18       It had a lot of open spaces, lot of countryside; it is a  
19       beautiful County. It actually costs the people in the County  
20       area, Silver Spring, Bethesda, Chevy Chase - a guy with a  
21       \$30,000 house, assessed at \$30,000, about \$39 a year to



1 support the farm assessment in Montgomery County. I think  
2 that \$39 a year is worth it to him.

3 If he wants a different kind of environment, I  
4 think maybe be better move someplace else. But in my  
5 opinion, the \$39 a year he pays for the farm assessment in  
6 Montgomery County is well worth it. I hope this amendment  
7 is defeated.

8 THE CHAIRMAN: Are you ready for the question?

9 The Clerk will ring the quorum bell.

10 The question arises on adoption of Amendment  
11 Number 3. A vote Aye is a vote in favor of the amendment;  
12 a vote No is a vote against. Cast your votes.

13 Has every Delegate voted? Does any Delegate  
14 desire to change his vote?

15 The Clerk will record the vote.

16 There being 23 votes in the Affirmative and 100  
17 in the Negative, the motion fails. The amendment is  
18 rejected.

19 Pages will please distribute Amendment B. Amend-  
20 ment B will be Amendment Number 4. The Clerk will read the  
21 amendment.



1 MR. QUILLEN: Amendment Number 4 to Committee  
2 Recommendation Number SF-3 by Delegates Hanson and B. Miller  
3 on page 2, Section 8.02.

4 Assessments in line 7, strike out the word "shall"  
5 and insert in lieu thereof the word "may".

6 THE CHAIRMAN: Amendment Number 4 is proposed by  
7 Delegate Hanson, seconded by Delegate Beatrice Miller.

8 The Chair recognizes Delegate Hanson.

9 DELEGATE HANSON: Mr. Chairman, I think the  
10 intention of this amendment is clear. It is to make it  
11 possible for the legislature in light of the decision of  
12 this Convention just made to have as much flexibility as can  
13 be obtained with retention of the clause, changing the  
14 clause from a mandatory one to a permissive one.

15 I see no need to prolong the debate on this. We  
16 just want to give the Convention one last chance to redeem  
17 its honor on this problem.

18 THE CHAIRMAN: Delegate Case.

19 DELEGATE CASE: Delegate Hanson, I am going to  
20 give you that chance in a very few minutes now.

21 May I say, Mr. Chairman, Ladies and Gentlemen of





1 the Committee, that this amendment really is a rehash of what  
2 we have just been through. To change the word "shall" to  
3 "may" is exactly the same as taking out the last clause in  
4 the Committee Recommendation. There is absolutely no  
5 difference. As Delegate Hanson said in his presentation of  
6 the former amendment, what it meant in effect was the  
7 General Assembly may make this assessment if it chooses to  
8 do so. What we have here is the word "may" inserted for  
9 "shall", merely puts that in writing. So what he originally  
10 said could be done is now merely put in writing. It is  
11 exactly the same point, has been voted on before.

12 I urge you to vote the same as you did last time.

13 THE CHAIRMAN: Ready for the question?

14 The Clerk will ring the quorum bell.

15 The question arises on adoption of Amendment Num-  
16 ber 4. A vote Aye is a vote in favor of the amendment; a  
17 vote No is a vote against. Cast your votes.

18 Have all Delegates voted? Does any Delegate desire  
19 to change his vote?

20 The Clerk will record the vote.

21 There being 22 votes in the Affirmative and 96 in



1 the Negative, the motion fails and the amendment is rejected.

2 Are there any other amendments to Section 8.02?

3 The Chair hears none.

4 For what purpose does Delegate Churchill Murray  
5 rise?

6 DELEGATE C. MURRAY: To try to lighten the  
7 situation momentarily. It will only take a moment and it is  
8 worth doing.

9 Recently, in clearing the livestock off of the  
10 farm, someone not too familiar with farming undertook to do  
11 so. Later, he met his friend who was very little more  
12 knowledgeable and he told him that he had gotten the live-  
13 stock off and everything was straight but there was an  
14 animal there that I didn't know what to do with and  
15 just to be rid of him, I shot him. As he described him, his  
16 said,  
17 friend/, "You fool, that was a farmer." (Laughter.)

17 THE CHAIRMAN: Any amendments to Section 8.02?

18 The Chair hears none.

19 Any amendments to Section 8.02-1?

20 The Chair hears none.

21 Any amendemnts to Section 8.02-2?



1 Delegate Case, do you desire to offer your amend-  
2 ment E?

3 DELEGATE CASE: No, sir.

4 THE CHAIRMAN: Any other amendments to Section  
5 8.02-2?

6 The Chair hears none.

7 The question now arises on the approval of the  
8 Committee Recommendation Number SF-3.

9 Are you ready for the question? (Cries of Yes.)

10 The question arises on the approval of Committee  
11 Recommendation SF-3. A vote Aye is a vote in favor of the  
12 recommendation. A vote No is a vote against. Cast your  
13 vote.

14 Has every Delegate voted? Does any Delegate  
15 desire to change his vote?

16 The Clerk will record the vote.

17 There being 105 votes in the Affirmative and  
18 none in the Negative, Committee Recommendation SF-3 is  
19 approved. (Applause.)

20 The Chair recognizes Delegate Sherbow for the  
21 presentation of Committee Recommendation SF-4.





1 For what purpose does Delegate Fornos rise?

2 DELEGATE FORNOS: For a point of personal  
3 privilege.

4 THE CHAIRMAN: State the privilege.

5 DELEGATE FORNOS: Mr. Chairman and fellow  
6 delegates, I would like to have the opportunity of  
7 introducing Mrs. Roberta Smith.

8 THE CHAIRMAN: We are delighted to have you  
9 here. (Applause.)

10 Delegate Sherbow.

11 DELEGATE SHERBOW: Mr. Chairman and ladies  
12 and gentlemen of the committee.

13 If we can now keep that boy down on the farm and  
14 come back to Annapolis and proceed with the problem that  
15 affects everybody, namely indebtedness, I think we can move  
16 on but I could not finish without expressing to all of you  
17 on behalf of our committee our appreciation for the  
18 magnificent manner in which our Vice Chairman and member of  
19 the committee, Delegate Case, has handled the matter which  
20 was just concluded. We are now presenting to you a report  
21 with a series of recommendations dealing with the subject of



1 State indebtedness. This comes to you in just two sections,  
2 but if I were to assess any section of the Constitution and  
3 say this is of tremendous importance or that section is of  
4 tremendous importance, I<sup>would</sup> get no argument from anyone on the  
5 subject now before us. Unfortunately, this subject is loaded  
6 with technicalities, technical problems, meaning of words,  
7 what they mean when used in a Constitutional sense where  
8 they don't mean the same thing when used in everyday parlance.  
9 These words of art have come to have special meanings in this  
10 field we are now embarking on.

11 Unfortunately, in this presentation, those of you  
12 who are sophisticated in this field of finance and matters  
13 relating to State indebtedness will be bored. Those who are  
14 not sophisticated, I hope at least you will pay some attention  
15 because I am addressing myself as much to those who are not  
16 Members of the bar and who have no special knowledge in  
17 this field as I am to those others.

18 Maryland has a history with respect to its  
19 indebtedness that perhaps mirrors the whole history of our  
20 country. At some stage, everybody thought they knew a sure  
21 winner and they invested heavily in the sure winner and then,



1 as usual, came the day of reckoning when the bubble  
2 burst and this happened in the State of Maryland when the  
3 United States in its push toward the West began to provide  
4 means through canals, through railroads and these great  
5 enterprises were going to make everybody rich. All you had  
6 to do was to invest in them and sit back and reap the profits.  
7 The people who lost were not only the investors but they were  
8 people of the State of Maryland and, sad to say, those who  
9 came from another generation, the one behind the investors  
10 and the one behind them and they had to pay for the mistakes  
11 of their forefathers because you cannot get something for  
12 nothing. You have to pay for it. So when the last  
13 Constitution came to be written and the one before it came  
14 to be written, they wanted to be sure that the mistakes  
15 that had been made would not occur again and so they wrote  
16 into the Constitution one safeguard after another.

17 Sometimes these safeguards worked out. Sometimes  
18 they were good. Sometimes they did not work out and they,  
19 therefore, worked either to prevent the State from making  
20 progress or they had to find a way to get around it. We  
21 have, as you will note from your examination of the





1 Commission's Report, constitutional prohibitions involving  
2 the incurring of State debt. Now, one of these prohibitions  
3 or safeguards, it is really not a prohibition but a safe-  
4 guard is this, and I put it in very simple language, an  
5 over-simplification, if you will, they provided that when  
6 you borrow money in the State of Maryland and you issue the  
7 State's Bonds to secure that indebtedness, then and there  
8 you must provide a tax with which to pay back the principal  
9 over a period of years which is amortization and that tax  
10 must also include the interest that you must have. They  
11 did this in order to hold back wild expenditures of money  
12 for speculative investment, construction, building or plans  
13 or ideas and the purpose was to require the legislature in  
14 doing so to provide the necessary tax and when you have to  
15 provide the necessary tax with interest, then you do go slow  
16 because every legislator knows that as you impose this tax,  
17 the people back home know about it. So that as they incurred  
18 this indebtedness, and as they incurred interest in the  
19 State of Maryland, there was one sure tax. That tax was the  
20 tax on real estate, so that every time Maryland provided a  
21 bond issue, the legislation providing for the bond issue



1 carried with it, tax on real estate sufficient to pay the  
2 principal over the period of time it was to be amortized and  
3 interest as the interest accrued which, of course, declined  
4 as the payments on principal were made. So you had a sure  
5 basis for the payment of your indebtedness.

6 Now, when you are ready to sell bonds, you go out  
7 into the marketplace. The marketplace is the public. Bond  
8 issues are purchased in open bidding by syndicates of  
9 bankers, investment houses; these investment houses, these  
10 syndicates are made up sometimes of 30, 40 or 50 banks in  
11 one group and 40, 50 or 60 banks in another group or invest-  
12 ment houses, sometimes fewer, sometimes a third syndicate.  
13 Then on the day when the bidding is open, out to the third,  
14 fourth, fifth or sixth decimal point, you determined who is  
15 giving the State of Maryland the most money for its bonds or,  
16 in reverse, who is requiring the State to pay the least  
17 interest.

18 Or, putting it still another way, does the  
19 investor get a larger yield or a smaller yield? There  
20 evolved in connection with our bond issues a form of bond  
21 where each year there was a particular bond requirement for





1 that particular year as to how much by serial number, by  
2 grouping would be amortized, what the interest rates would  
3 be, and sometimes the interest rates for the first few years  
4 would be different from the interest rate for the latter  
5 years. All of this depended on many tangibles and  
6 intangibles. Much of it depended on what the marketplace  
7 demanded when you went into the market. It depended on what  
8 world conditions were, what conditions were in our own  
9 country and what, indeed, were the conditions on the day  
10 when you went into the marketplace. But over and above all  
11 of this, what you got for your bonds depended on how good  
12 your credit was and is, how good your credit is affects you  
13 in a number of ways. If you have got the best credit there  
14 is, you are going to get a better price for your bonds. If  
15 you have a credit which is not the best, but almost the best,  
16 you may pay more in interest and get less for your bonds and  
17 so on down, depending on how you are rated.

18 Now, these ratings are not made in the State  
19 House, they are not made in Annapolis. These ratings are  
20 made in New York by two of the big organizations dealing in  
21 this field of bonds where they spend tremendous time/money  
and





1 to investigate every facet of the State or of the County  
2 or of the City that is coming into the marketplace. If you  
3 have the best rating of all, you have a triple "A" rating,  
4 therefore, it would mean, depending again on the conditions  
5 of the time when you go into the marketplace, you would then  
6 get the best price for your bond and pay the lesser interest.  
7 If you had a double "A" rating, obviously, although some-  
8 times the margin in price may be almost so small that only  
9 where a large issue is concerned would it amount to a great  
10 deal, sometimes your rating may be reduced as it was in the  
11 State of New York and then come back as it had been in other  
12 jurisdictions but Maryland has enjoyed a triple "A" rating  
13 over a long period of time. One of the reasons we have had  
14 this triple "A" rating is the fact that you take into  
15 consideration the overall picture relating to the management  
16 of Maryland finances. Not one of the individual parts is  
17 determinative but the whole concept of the financial  
18 structure is what determines what that rate shall be. It is  
19 guarded jealously by those who hold high political office  
20 and they do so because this more than anything else is the  
21 real basis of good administration. One of the important



1 aspects is how much have you got outstanding in all of your  
2 bond issues? How much are you paying each year? How have  
3 you spread it out and over how many years is it being  
4 spread out? For what purpose is it being spent and all of  
5 the matters which generally go into a consideration of  
6 whether or not you are doing good management.

7 Now, one of the items that we have had in the  
8 Constitution has been this requirement that Maryland shall  
9 issue, pay by a tax which is a tax on real estate, pay the  
10 interest and the principal each year. For more than 40 years  
11 that I know of, a lot of us, many of whom are sitting here  
12 in this room, have been engaged in one aspect of public  
13 work where we are hoping that we will see the day when the  
14 real estate tax will not be used as the base by the State  
15 for any of its taxation.

16 After all, the Counties and the political sub-  
17 divisions have seen nearly everything they have in the way  
18 of a base for taxation taken away from them and preempted  
19 either by the Federal Government or by the State Government.  
20 They have watched their own real estate tax get to a point  
21 where it was having an adverse effect on the Counties and



1 and the political subdivisions below them, namely, the city

2 And in report after report, going back for more  
3 than 40 years, efforts have been made to take the State out  
4 of the real estate taxing picture. Now the very first  
5 recommendation of our Committee and a Recommendation of the  
6 Constitutional Convention Commission, the Eney Commission,  
7 is that this be done and the way in which it is being done is  
8 following the procedure adopted in New York and elsewhere,  
9 the State of Maryland pledges its unlimited taxing power  
10 behind each bond issue and in so doing says to the people  
11 who buy the bonds, we are not now from this point on  
12 adopting a separate real estate tax for this purpose but  
13 everything we have, all of our taxing power, all of our State  
14 assets that are available stand behind this bond issue.  
15 This, however, is not enough. You may pledge all of this  
16 but it is not enough. There must be the provision for that  
17 day which might come, we hope never, but it could, when the  
18 legislature for some reason did not appropriate the money  
19 with which to pay the interest and the amortization in that  
20 current year to pay off the bonds which are due or the  
21 interest which is due that particular year. You could not





1 sell your bonds unless you went one step further and that  
2 that you must provide that out of the money which comes into  
3 your State Treasury, you will make available the money with  
4 which to pay the interest and the principal due that year.

5 Now, you cannot, as I think we have been told and  
6 as some of us have said again and again, mandamus the legis-  
7 lature and say: . Thou shalt do thus and so, but you can  
8 mandamus, that is to require a State officer to perform  
9 ministerial act. This you can do. So first, let me tell  
10 you that we have provided that the creation of the obligation  
11 for the indebtedness shall include an irrevocable pledge of  
12 the full faith and credit of the State and we have gone one  
13 step further and we say that when it includes the full faith  
14 and credit of the State, it shall be the duty of and in this  
15 Recommendation, we say Comptroller, but I will come back to  
16 that in a moment, having pledged the full faith and credit  
17 of the State, it is the duty of the Comptroller to pay or to  
18 make available for payment to the holders of this indebted-  
19 ness from the first revenues that come in a sum equal to  
20 interest and principal.

21 So, two things have now happened. One of them is



1 that we pledge irrevocably our full faith and credit. We  
2 make no specific tax on real estate or anything else for  
3 this bond issue payment of principal and interest and we  
4 provide that the money shall be paid and then when no  
5 provision is made for it, the Comptroller is required out of  
6 the first money that comes in to pay that which is due.

7 Now, I ask you, please, not to be burdened at this  
8 point with the fact that we have used the word "Comptroller"  
9 we put this in at a time when obviously we could not know  
10 what action would be taken by the Convention. It may be  
11 after this is passed and we ask you to pass it without  
12 binding yourself in the slightest degree as to the name  
13 "Comptroller" because what we had in mind is that Fiscal  
14 Officer of the State, by the time this comes back from the  
15 Committee on Style, we will by that time have settled a  
16 number of other problems. Whoever the proper State official  
17 is, the right one, that is the one we will put in and if it  
18 isn't the Comptroller or if he doesn't even have a name, we  
19 will use the language which will clearly indicate what we  
20 mean.

21 So now let me pass that for a moment by saying



1 that we pledge irrevocably the full faith and credit of the  
2 State. No specific real estate tax is then required and  
3 the principal official of the State in charge of Fiscal  
4 Affairs is the one who must provide the money as it is  
5 provided by the General Assembly in the budget. If it is  
6 not in the budget, then the money can and will be taken from  
7 the money that comes in. But the State does not immediately  
8 go out of the taxing of real estate because we have pending  
9 a great deal of bonding payment, principal and interest over  
10 a long number of years yet to come, up to 15 years; until  
11 that is all paid out, the Counties and the City will not be  
12 able to feel that the State has any turned over to them all  
13 of the power to tax real estate, but we go a step further.  
14 We say the State shall not give up its right to tax real  
15 estate. The State is giving up no powers to tax. We are  
16 just hoping that by this device which is good business, that  
17 the State may find itself well able to get out of the taxing  
18 of real estate, but mind you, the State does not, N-O-T,  
19 does not give up its powers of taxation.

20 Now, we come back to another aspect of this  
21 Recommendation because now we say that unless the law which





1 creates this obligation includes the irrevocable pledge of  
2 the full faith and credit of the state, the obligation shall  
3 not be considered an indebtedness of the state. The terms  
4 of this section shall not apply, but if it does include such  
5 a pledge, then it is secured by the unlimited taxing power  
6 of the state and it is subject to the terms of this section.  
7 So that before this becomes applicable, that law creating  
8 this bonding indebtedness must pledge irrevocably the full  
9 faith of the state and if it does not, then it is not an  
10 obligation of the State of Maryland,

11 DELEGATE BENNETT: Mr. Chairman --

12 DELEGATE JAMES: For what purpose does Delegate  
13 Bennett rise?

14 DELEGATE BENNETT: Just to ask the Chairman to  
15 permit an interruption.

16 DELEGATE JAMES: Yes, indeed.

17 DELEGATE BENNETT: Why would the legislature  
18 not wish to pledge the full faith and credit to the state  
19 under any circumstances?

20 DELEGATE SHERBOW: I couldn't conceive of their  
21 not doing it if this constitution is passed but there will be



1 many occasions which I will discuss in a moment, Delegate  
2 Bennett, when the State does not want to pledge its full  
3 faith and credit for those issues which are not the kind of  
4 issues where the State should, as for example, what has  
5 come to be known as revenue bonds where the people who buy  
6 the bonds are looking not to the State of Maryland, but to  
7 that which is being created, a bridge, a tunnel or a  
8 particular highway and the revenues coming from that  
9 particular object, that is where they are looking for their  
10 money, that is where they expect it, that is where they will  
11 get it and therefore, the State does not pledge its faith  
12 and credit because there are, and I am coming to it, but I  
13 will answer it since I said I would, these different class-  
14 fications of bond.

15 Now, we wanted to be sure that there would be no  
16 misunderstanding that this section does not preclude the  
17 issue of revenue bonds, on the contrary, we make it abundantly  
18 clear that this can be done and that when it is done, you look  
19 to that which is the source of your payment but it is not the  
20 full faith and credit of the State. Where it is, of course,  
21 a State bond issue pledging the full faith and credit of the



1 State, then of course this means that every resource we have  
2 is behind it but there has grown up and will continue to  
3 grow up/<sup>all</sup>kinds of objects for State construction that at the  
4 moment we may not even be able to dream up where the  
5 revenues will take care of the payments of principal and  
6 interest and the State very probably will continue to say,  
7 as it has in the past, as it does now with State roads and with  
8 bridges: You look to the revenues not to the full faith and  
9 credit of the State.

10 Now, it is is pledge of the unlimited taxing  
11 power of the State. I have discussed with you if we don't  
12 make the payment, the Comptroller is there to make sure, or  
13 whoever the official is, that it will be paid.

14 Now, one of the other objections that occurred in  
15 days past, which circumscribed the method of bond issues is  
16 a requirement that the State of Maryland will not incur  
17 bonds or bonded indebtedness that goes beyond a period of  
18 15 years. Now, on this subject, there is a Minority Report  
19 and undoubtedly some amendments. I want to discuss this  
20 quite fully with you.

21 This came into being because the State, like





1 private individuals, wanted to be sure that we were going to  
2 pay off our debt within a period of time that was fixed.  
3 And it set 15 years so this meant that whatever the capital  
4 improvements of the State were, that when you offered the  
5 bonded indebtedness to get the money to take care of  
6 this particular object you were seeking to accomplish, you  
7 had to pay it off in a 15 year period. This meant exactly  
8 what it said, you pay it off in 15 years. It does not mean  
9 that it is paid off 1/15th each year. The first two years  
10 you may only pay interest. Then a good State Treasurer,  
11 a good Governor, a good Comptroller, a good Director of the  
12 Budget, they all look to see how you can scale this in such  
13 a way that you won't have high peaks and valleys so that  
14 during each year you will be able as best as you can to adjust  
15 your payments of principal and interest and then, of course,  
16 you have to think pretty seriously about the problems that  
17 arise when you go into the money market.

18 Now, this has served the State well. But over a  
19 period of time, new problems in the financial world, a new  
20 dynamic development in the life of the State is taking place.  
21 And a thorough and complete study was made by the Commission



1 of the need, if any existed, for extending this period of  
2 maturity beyond the 15 years. They reached the conclusion,  
3 and you will see this in the Eney Commission Report, that  
4 they recommended the extension of the maturity date to 25  
5 years rather than 15 years. You will also know that in the  
6 course of the Committee studies and reports and hearings  
7 that these are the philosophies and views that developed.  
8 There are some who believe that you ought not to have any  
9 requirement built in to the Constitution as to a maturity  
10 date. Those who feel this way say sometimes you are going  
11 to build or provide for something that is going to have a  
12 rather long life and if that is the case, maybe you ought to  
13 pay it off over a longer period of time so if it is 30 or  
14 40 years or even longer, you would have the right to do so.  
15 There are others who say: You have done well with 15 years,  
16 why should you want to change it and there are others who  
17 say, we have looked into this whole picture and we think  
18 25 years maturity is right.

19 Now, I am not trying to be cute about this, but I  
20 do say to you that there is an element of right in what all  
21 of them say provided they were all smart enough to know what



1 the next 100 years is going to bring forth, because there  
2 are developments in this field that if you are tied in a  
3 straight jacket may do great harm to the State.

4 We had before our committee I would say almost  
5 every fiscal officer of the State, and in its distillation  
6 it came down to this: If you are going to ask us how has  
7 it worked in the past, we say 15 years is good. If you  
8 are going to make it a blanket 25 years without any restric-  
9 tion, then we feel that the legislature may decide to make  
10 them all up to 25 years. If you reach the conclusion that  
11 there ought to be some form of flexibility, go ahead and see  
12 what you can work out.

13 We had before us one man whom I would say for  
14 this record, and I hope it is an imperishable record that  
15 will live for a long time, James Rennie, one of the great  
16 servants of this State. He was budget director of the  
17 State of Maryland after Walt Perkman retired, having or-  
18 ganized this Department of Budget and Procurement.

19 James Rennie is a great public servant. We  
20 had reached a conclusion, the majority of our committee,  
21 that we would ask ourselves and then ask these people this





1 question: If we left it at 15 years but provided that  
2 it could be extended to 25 years upon a three-fifths vote  
3 of the General Assembly, which then would recognize that  
4 of the this was out/ordinary, indeed was extraordinary, and would  
5 require a three-fifths vote of the membership, that in  
6 so doing, would this provide a kind of flexibility that  
7 would give us all of the good of the 15 year proviso, give  
8 us the full benefit of the extension by the majority to  
9 25 years, give us the recognition that the legislature  
10 could not willy-nilly go into this extension, but must  
11 know that it is different and that it does require special  
12 attention, and then wouldn't become law, even then, unless  
13 the governor signed that particular bond indebtedness law?

14 So coming back to Jim Rennie, I posed this  
15 to him, and his answer was: This is good. It combines the  
16 best features of each of the proposals.

17 One of the others who we have great faith in  
18 because of his tremendous experience, because of his back-  
19 ground and knowledge, is the State Treasurer of Maryland,  
20 John Leutkemeyer. He has been our State Treasurer, sits  
21 on top of all these problems relating to bond issues, and

1. The first part of the report is an introduction to the project.	10
2. The second part of the report is a description of the methodology used.	15
3. The third part of the report is a presentation of the results.	20
4. The fourth part of the report is a discussion of the results.	25
5. The fifth part of the report is a conclusion.	10
6. The sixth part of the report is a list of references.	10
7. The seventh part of the report is an appendix.	10
8. The eighth part of the report is a glossary.	10
9. The ninth part of the report is a bibliography.	10
10. The tenth part of the report is a list of figures.	10
11. The eleventh part of the report is a list of tables.	10
12. The twelfth part of the report is a list of abbreviations.	10
13. The thirteenth part of the report is a list of symbols.	10
14. The fourteenth part of the report is a list of units.	10
15. The fifteenth part of the report is a list of acronyms.	10
16. The sixteenth part of the report is a list of initialisms.	10
17. The seventeenth part of the report is a list of contractions.	10
18. The eighteenth part of the report is a list of abbreviations.	10
19. The nineteenth part of the report is a list of symbols.	10
20. The twentieth part of the report is a list of units.	10

1 said very frankly before our committee: "If you are mak-  
2 ing no change other than a flat 25 years, I would prefer to  
3 see it at 15. But if you are going to provide the flexi-  
4 bility such as you contemplate, then I say to you, this is  
5 a better solution --" 15 / <sup>years</sup> fixed, but with the right to  
6 extend to 25 only upon the three-fifths majority I just  
7 explained to you.

8 We took this up with some of the legislative  
9 leaders, and they, too, agreed that if it is to be without  
10 any restriction they would rather have 15, but if it is  
11 going to be in this form -- and I don't call it a compromise;  
12 I call this reaching the practicalities of a situation  
13 that may develop in years to come, giving the State the  
14 flexibility it needs in a field which is so complex that  
15 its top fiscal advisers and officers should have their eyes  
16 directly attuned to this problem when and if it comes up.

17 By so doing you eliminate the answer which is  
18 glibly given: Well, if you make it 25 years, they will  
19 all be 25 years. But this is not so by reason of the  
20 manner in which this provision is drafted.

21 Now, there is another official of the State of



1 Maryland whom every legislator knows about, and who  
2 the public gradually is beginning to learn about. He has  
3 his name, rightly or wrongly, attached to something called  
4 a "tax bill", and I am referring to Dr. Paul Cooper, the  
5 head of the Fiscal Bureau Research Bureau. I laid this  
6 matter before him, and his answer was the same as Mr. Ren-  
7 nie's, the former Director of the Budget, and his  
8 answer was the same as Mr. Leutkemeyer, and the same as other  
9 members of the General Assembly.

10 Now, with this, our committee has approved this  
11 provision: "All State indebtedness shall mature within  
12 15 years from the time when such indebtedness is incurred,  
13 except at the time of authorizing the indebtedness the  
14 General Assembly may extend the period to not more than 25  
15 years by the affirmative vote of three-fifths of all the  
16 members of each House."

17 We believe that what we have done in the com-  
18 mittee, as I have said, is to give us the 15 year provision  
19 that has served well, to give us the opportunity to go up  
20 and beyond that, whether it is 16, 18, 24, 25 -- no more  
21 than 25 -- by a three-fifths vote it can be done when these





1 occasions arise.

2 Now, there is another reason for having this  
3 flexibility. The State of Maryland, having this excellent  
4 rating, paying less interest, is in a position where it  
5 can aid its own political subdivisions. One of the greatest  
6 needs in the State of Maryland has been, and for a long  
7 time will be the need for additional school construction.  
8 Those political subdivisions that are unable to pay  
9 their higher interest rates and pay over a long period of  
10 time struggle with this problem and do the best they can,  
11 never quite catching up.

12 So, when the State of Maryland says to them,  
13 "You may use our credit for school construction and pay us  
14 back in the 15 year period," they say, "We cannot do it."  
15 The burden on the county is just too great.

16 This will mean that when, in the wisdom of the  
17 legislature and the governor there comes a time when there  
18 will be additional school construction bonds issued for the  
19 benefit of the counties so that the counties can pay it back,  
20 the State will then be in a position where it can, under  
21 such circumstances, be of greater aid to the counties by



1 providing them with a means of paying back over the longer  
2 period of time, up to 25 years.

3 Now, when you reach this particular point in the  
4 debates there will be several amendments offered. I find  
5 that sometimes I would that I had not written what I see  
6 before me, because I just got through saying that I don't  
7 treat this truly as a compromise; but I find that in our  
8 work paper here, our "explanation," we call it, of course,  
9 our memorandum, I say "The action of the committee represents  
10 a compromise."

11 Don't chastise me too severely. You can call  
12 it a compromise. We think it is the best end result you  
13 can achieve at a time like this when you can't guess what  
14 is going to happen in the future.

15 We are going to ask you to approve what I have  
16 just discussed. You will be asked, however, by some of the  
17 minority who -- by the way, ours was approved by a majority  
18 of 11 to 3, with one abstention. You will be asked to take  
19 the other view, to hold it down to 15 years.

20 We think this is a mistake. We think it is a  
21 serious mistake. You will be asked to go to the other



1 extreme of taking out any maturity date. We think that  
2 is a mistake, a very serious mistake. We hope that when  
3 that time comes you will adopt the views of the best advice  
4 available on this subject.

5 Now, while I am talking about it, I want you to  
6 know that we have had the advice of bankers and investment  
7 people. They are just as interested in the State, even  
8 though they are in the banking business, as any person here  
9 present. They have given us their advice. They, too, have  
10 said this is the perfectly satisfactory way of accomplish-  
11 ing what the State is seeking; namely, to hold on to what  
12 you have got. Try to keep the flexibility for what may  
13 some day be needed.

14 On the subject of the State's credit rating, you  
15 should know that the two credit rating agencies, Standard  
16 and Poors, and Moody's, have each said: This will not ad-  
17 versely affect the State's credit rating. Actually, if we  
18 conduct the affairs of the State in the future in the same  
19 manner in which they have been conducted in the past, we  
20 will keep the best credit rating that is available, namely  
21 AAA, and this action, including the action of substituting





1 the full faith and credit of the State in its unlimited  
2 taxing power, rather than a specific tax, and we will have  
3 our AAA rating.

4 Of course, if we start throwing our money away,  
5 it doesn't make any difference what our bond principals  
6 are, how you try to protect yourself, that would be something  
7 that would adversely affect it.

8 Now, we have provided and believe that what  
9 we have done here means that when we issue bonds this is for  
10 a public purpose, and it is not in order to pay off other  
11 bonds. The State must provide for the payment of its  
12 bonds, and not let them all balloon until one day a great  
13 big lump sum becomes due.

14 We continue to provide that these general obli-  
15 gation bonds will be paid from revenues of the State.

16 Now we come to a matter which will require fur-  
17 ther discussion. There is one word in the second sen-  
18 tence of section 6.01; it appears on line 13. This actually  
19 says, "The State shall have the power to incur indebtedness  
20 for any public purpose." This is used in order to distin-  
21 guish this from a private purpose. The State cannot



1 issue its bonds just to please you or me, or for a purpose  
2 which is not a public purpose. But what does public  
3 purpose mean? Here I have go go back into history. I  
4 hope you will bear with me. It requires perhaps a repeti-  
5 tion of what appears in the blue book, what we call the  
6 Eney Report. I shall not repeat it, but let me give  
7 it to you in the very general way, touching on the high-  
8 lights.

9 When those disasterous effects began to be felt  
10 this long time ago, and the State had thrown away its patri-  
11 mony in these bad investments and it became necessary to  
12 provide these protections, the State required by its  
13 Constitution that there could be no bond issue. They said  
14 "The credit of the State shall not in any manner be given or  
15 loaned to or in aid of any individual, association or cor-  
16 poration, nor shall the General Assembly have the power  
17 in any mode to involve the State in the construction of  
18 works of internal improvement which shall involve the full  
19 faith and credit of the State, nor make any appropriations  
20 therefor," et cetera.

21 They were going to make sure that as far as our  
State was concerned they wouldn't get caught again in any



1 Baltimore & Ohio investments that were bad, nor were they  
2 going to get caught in any canal building investments and  
3 get hurt that way.

4 In the course of years bond issues were provided  
5 for by the General Assembly, and with the approval of the  
6 governor who signed the bill, but nobody could tell what  
7 -- they could not tell whether the purpose was in conflict  
8 with this Constitutional limitation. Here indeed was  
9 the State now being held back and prevented from doing  
10 some of those things which the elected representatives of  
11 the people felt were necessary. And every time a problem  
12 arose and there was a bond issue about which there could  
13 be even the slightest question, this meant that it was  
14 necessary to arrange to have a taxpayer file a suit, and  
15 then this taxpayer would object in this suit to the issuance  
16 of these bonds for this purpose because it violated the  
17 provisions of the Constitution.

18 It might be construed, they said, as a gift.  
19 It might not have been for a purpose which was permitted  
20 because it was a private purpose; and so a whole body of  
21 law has grown up in Maryland.





1           The commission and our committee have adopted  
2 the words which we believe will provide that no bond issues  
3 shall be approved unless they are for a public purpose.

4           Now, we cannot circumscribe the meaning of the  
5 word "public" because in the dynamic era in which we  
6 live, items which we believed a few years ago were utterly  
7 inconceivable as being within the realm of what governments  
8 should be interested in today are accepted as normal.

9           Today, the State of Maryland has the choice:  
10 Shall it build gigantic hospitals throughout the State,  
11 expand its own university hospital, or is it better for the  
12 State to provide aid to private non-sectarian hospitals?

13          The State faces the question of whether the great  
14 universities, other than its own State universities can find  
15 a means of providing for pupils to give them an opportunity  
16 to live on campus in dormitories which can be  
17 built with federal aid, along with State aid, but they are  
18 not universities owned and run by the State.

19          The word "public" in its concept is changing and  
20 evolving constantly. We don't know, and we dare not  
21 attempt to provide for what these governmental responsibilities



1 may be in the years yet to come; but there is one safeguard,  
2 and that safeguard is the court. And in every instance  
3 where there has been any question, it is the courts that  
4 have made the final determination of whether or not this is  
5 a public purpose.

6 Let me give you one example. There isn't anybody  
7 in the central part of the State of Maryland around Balti-  
8 more City who is not aware of the tremendous need for a  
9 hospital in the area where many of the underprivileged  
10 live. We have at the present Provident Hospital, a pri-  
11 vately run non-sectarian -- when I say "privately run,"  
12 I mean it is not run by the State -- non-sectarian hospital,  
13 most of whose patients are Negroes, most of whose doctors  
14 are Negroes.

15 The hospital is utterly and completely incapable  
16 of taking care of the needs of the area that it serves.  
17 Private philanthropy is either being dried up or is not  
18 going in the areas that it used to a few years ago.

19 It is tough enough at the end of the year to pass  
20 the hat to maintain our private hospitals, but I tell you,  
21 it is next to impossible to obtain the funds with which



1 to provide for total construction of hospitals.

2 Facing this problem with respect to Provident  
3 Hospital, they needed the new location, the new structure,  
4 the new everything, and private philanthropy began its  
5 march to try to raise money.

6 This federal government that we have heard a lot  
7 about over in Washington has provided a big chunk of money  
8 for this construction through what we call the Hill-Burton  
9 Act. But then there was presented to Governor Tawes and  
10 his fiscal advisers the problem and the need. The question  
11 that required determination is: Is that a public need?  
12 The answer was yes, this is a public purpose, and a bond  
13 issue was passed by the General Assembly with the governor's  
14 approval, and that additional money was provided.

15 But as you wait it isn't enough, because construc-  
16 tion costs go up, and so the same problem was presented to  
17 Baltimore City and Baltimore City, likewise, approved a  
18 bond issue for this purpose purpose, which is to provide  
19 the funds for the construction of what you may call a pri-  
20 vate hospital. However, we do not. This is truly a public  
21 enterprise.





1           You may multiply this again and again, because not  
2 too long ago the State of Maryland again, in this same  
3 administration -- no; I think it was when Governor Tawes  
4 was Comptroller -- in any event, the Johns Hopkins Univer-  
5 sity needed funds for dormitories and other portions of an  
6 engineering building. This is a private institution,  
7 if you give the word "private" the most narrow meaning.  
8 This institution provides the State of Maryland with  
9 many opportunities for the young available  
10 students unable to provide their own funds to go to a top-  
11 flight engineering school through scholarship. But when this  
12 bond issue was presented, it raised these same questions,  
13 because what the State of Maryland was doing was giving  
14 cash to the Johns Hopkins University, after the State of  
15 Maryland had provided for this bond issue. And the  
16 Court of Appeals held that the word "gift" doesn't mean  
17 what you say it means. This is not a gift in the usual  
18 sense, but a gift serving a public purpose where it is a  
19 gift of cash received from the bond issue.

20           Now, we can multiply this, but there is one  
21 question I know running through your minds, and I want to



1 meet it head-on right now:

2 What do you do when you have the money made avail-  
3 able to what may be privately owned or privately run or  
4 privately managed institutions having some form of religious  
5 identification?

6 The State of Maryland has provided year after year  
7 in the budget for aid to colleges and universities, making  
8 a specific grant to them. No question was ever raised at  
9 that time about whether or not these were public purposes.  
10 But there came to a head at about the same time two cases.  
11 In addition to these grants to colleges, the State of  
12 Maryland had provided that it would loan money to hospitals  
13 in aid of construction, pay it off, but give the hospitals  
14 an opportunity to pay it back over a longer period of time  
15 and at a lower rate of interest. Two questions arose:

16 First, was this a public purpose; and secondly,  
17 if it was a public purpose, was it barred by the First  
18 Amendment of the Constitution, which, as you know, pro-  
19 hibits generally -- I hate to say it this way because it  
20 is almost too much an over-simplification -- any aid to  
21 religion, or organized religion. These cases came up in



1 this fashion: The Horace Mann League decided that it  
2 would go to court to test these bond issues -- not these  
3 bond issues, but these gifts in the budget for four of  
4 our colleges, on the grounds that the gifts to these  
5 colleges were in aid of religion.

6 Almost at the same time but just a little bit  
7 behind it was a case which was filed by a taxpayer to test  
8 whether or not the State could give its help and assistance  
9 to hospitals which obviously had some religious identifi-  
10 cation.

11 In the case involving the gifts of the Horace  
12 Mann case, as we now call it, there was the most intense,  
13 competent, and complete exploration of whether or not these  
14 colleges could be treated in such a way as to identify the  
15 gifts to them as for a public purpose and not in any way  
16 in contravention of the law as set out by either the First  
17 Amendment to the United States Constitution, or whether it  
18 was in contravention of anything in the Maryland Constitu-  
19 tion.





1           When these cases reached the Court of Appeals, in  
2 one of the lengthiest opinions that you will find, you can  
3 almost gauge it by physical weight, the Court went into  
4 every detail with relation to each of these institutions.  
5 It reached the conclusion that three of them were of such  
6 a nature that the basic purpose was of such a nature as to  
7 bring them within the framework and atmosphere of such  
8 religious identification as to contravene the constitutional  
9 prohibition. As to one, they ruled yes it was proper and  
10 the gift was legal and valid and the money could be  
11 turned over because while there was some slight reference  
12 in its origin and in its management perhaps to some  
13 religious reference, it was not religion-dominated, it was  
14 not religion-controlled and was free from any of the things  
15 that the law and the Constitution prohibited. When this  
16 case was decided by the Court of Appeals, it made perfectly  
17 clear that in Maryland the situation now gave us a com-  
18 plete open channel, that if we followed this decision at  
19 least we would have the guidelines and the beacon light  
20 all set out for us. This case was appealed in the non-  
21 technical sense to the Supreme Court. By that I mean an



1 effort was made to take the case to the U. S. Supreme  
2 Court but they declined to hear it and in effect this  
3 ratifies the decision of the Court of Appeals. It was  
4 held then this was for what we call a public purpose.

5 Now, with reference to the hospitals, one of  
6 them without question has a religious identification, but  
7 this applied not to the people who were being benefited  
8 but to its management and in some respects to its board.  
9 As to the others, not even this kind of a tenuous relation-  
10 ship was found to exist. But the Court of Appeals said  
11 that it was and it surely is a nonsectarian hospital.  
12 Nobody bothered to ask the patient what is your religion,  
13 nobody attempts to proselytize him or her to convert or to  
14 change. Its sole object is to get him or her well as  
15 quickly as possible. There the Court of Appeals properly  
16 so had no trouble. There was no problem.

17 I could go over with you case after case and  
18 bewilder you just as I would be bewildered in giving you  
19 the nuances, the ramifications and the changes in thinking  
20 over the years. But there is this word of art. A public  
21 purpose means that it is not for private benefit but in its



1       broadest sense is a purpose benefiting the people of the  
2       State of Maryland.

3               How this will change over the next fifty or a  
4       hundred years none of us knows, but as I think I said once  
5       before, the common law has changed with the changing times,  
6       the U. S. Constitution has changed in its interpretations  
7       of the same words with the changing times. Our courts  
8       change the meanings with the changing times. This is a  
9       concept which we believe is proper and technically we say,  
10      "Please accept it as it appears here because it is right  
11      and it is proper".

12             The prohibition that used to exist as to gifts  
13      creates a different problem. But is it really different?  
14      If you will look at Section 602, it says assets or credit  
15      of the State shall not be given or loaned to any individual,  
16      association, or corporation unless a public purpose will be  
17      served thereby and unless authorized by an act of the  
18      General Assembly stating the public purpose.

19             A gift of assets may be authorized by the  
20      affirmative vote of a majority of all of the members of  
21      each House. But a gift of credit or a loan of credit or





1 a loan of assets shall require the affirmative vote of  
2 three-fifths of the members.

3 Now, you ask why. When you talk about a gift  
4 of assets, this is a one-time item. Assets means cash.  
5 If the State chooses to give in the budget \$500,000 to  
6 Johns Hopkins University or to the hospital for a specific  
7 purpose which is a public purpose and is proper, this is  
8 given through the budget. It would be impractical and  
9 involve the legislature in an almost impossible practical  
10 situation to take a part of the budget, since this is a  
11 one-time thing, and say this part shall have this kind of  
12 a vote, the other part shall have a different kind of a  
13 vote. Both the Commission and our committee reached the  
14 conclusion that the gift may be authorized in the budget  
15 is what we mean, by the majority of all of the members of  
16 each House. If it is a gift of credit, if it is a bond  
17 issue or if it is a loan of credit, a bond issue where the  
18 State is issuing it and is going to get it back, or if it  
19 is a loan of assets, this is not a one-time thing but it is  
20 a continuing thing that may go over a period of time. It  
21 must, therefore, require the affirmative vote of three-



1 fifths of the members of each House.

2 This is done in order to flag it, in order to  
3 make it perfectly clear this is different and, therefore,  
4 must be given special treatment.

5 Mr. Chairman --

6 THE CHAIRMAN: Are there any questions of the  
7 committee chairman for purposes of clarification?

8 Delegate Gallagher.

9 DELEGATE GALLAGHER: Judge Sherbow, is it your  
10 intention that when the Legislature passes a bill that it  
11 must state generally what the public purpose that the  
12 bill seeks to serve?

13 THE CHAIRMAN: Delegate Sherbow.

14 DELEGATE SHERBOW: Yes, we think it is necessary  
15 to say this is a public purpose, what is the public pur-  
16 pose, and it must be in the legislation.

17 THE CHAIRMAN: Delegate Gallagher.

18 DELEGATE GALLAGHER: In the Horace Mann case  
19 the one college whose grant was upheld by the Maryland  
20 Court of Appeals and subsequently by inference by the U. S.  
21 Supreme Court was Hood College. The statute which was



1 challenged in that case, the grant to Hood as well as  
2 grants to other three colleges, four separate statutes,  
3 did not have in them in any place what the public purpose  
4 was nor were the appropriations made under any State law  
5 which spelled out the general public purpose to be served.  
6 As you would posit the language, therefore, the grant to  
7 Hood containing no statement of public purpose would be  
8 invalid.

9 THE CHAIRMAN: Delegate Sherbow.

10 DELEGATE SHERBOW: No, maybe I am going too far.  
11 Maybe I talked too quickly. It must be a public purpose  
12 but we did not include in the statute nor in our proposal  
13 any statement other than upon such terms and conditions as  
14 the General Assembly may prescribe by law. In other words,  
15 what we have said is it must be a public purpose in such a  
16 manner and upon such terms and conditions as the General  
17 Assembly may prescribe by law. They may say what it is,  
18 they may assume that it is so generally known that there is  
19 no need to say it but it is left to the General Assembly to  
20 so state.

21 But the public purpose must be an actual fact.





1 Even though it is not stated.

2 THE CHAIRMAN: Delegate Gallagher.

3 DELEGATE GALLAGHER: Judge Sherbow, in looking  
4 at 602 --

5 DELEGATE SHERBOW: Excuse me, may I interrupt  
6 a minute?

7 DELEGATE GALLAGHER: Yes.

8 DELEGATE SHERBOW: In Section 602 we do say  
9 there the assets or credit of the State shall not in any  
10 manner be given or loaned to any individual, association  
11 or corporation unless a public purpose will be served  
12 thereby and unless authorized by an act of the General  
13 Assembly stating the public purpose, that is different  
14 where it is a gift or loan of assets or credit.

15 THE CHAIRMAN: Delegate Gallagher.

16 DELEGATE GALLAGHER: Now, in these cases they  
17 involved not loans as we have under the Maryland Hospital  
18 Loan Commission Act but outright state matching grants  
19 \$750,000 for dormitory if the college could raise an addi-  
20 tional \$750,000.

21 This provision would require that the public



1 purpose be stated in the act if you were giving \$750,000  
2 of matching money, it would be a gift of an asset.

3 THE CHAIRMAN: Delegate Sherbow.

4 DELEGATE SHERBOW: Yes, that is a gift of cash,  
5 a gift of an asset, must have two things, public purpose  
6 to be served must be authorized by the General Assembly  
7 stating the public purpose.

8 THE CHAIRMAN: Delegate Gallagher.

9 DELEGATE GALLAGHER: I have no argument with  
10 this suggestion. I think it is a good one. The fact that  
11 it might have precluded trouble in the past. I will ask  
12 you this question, Judge Sherbow: You do not envision,  
13 your language in the constitutional draft here, to prohibit  
14 either the loan or the giving of assets of the State to  
15 private corporations so long as a public purpose is served  
16 and so long as the other traditional First Amendment require-  
17 ments are adhered to, would that be a correct statement?

18 THE CHAIRMAN: Delegate Sherbow.

19 DELEGATE SHERBOW: That is a correct statement,  
20 Delegate Gallagher.

21 THE CHAIRMAN: Delegate Gallagher.



1 DELEGATE GALLAGHER: Thank you.

2 THE CHAIRMAN: Any further questions?

3 Delegate James.

4 DELEGATE JAMES: Mr. Chairman, I would like to  
5 ask Delegate Sherbow whether a court would be bound by the  
6 second unless, "unless authorized by an act of the General  
7 Assembly stating the public purpose". In other words,  
8 would the court go behind the declaration and take testimony  
9 as to whether a public purpose as a matter of fact was  
10 actually being served or is it your intention to give the  
11 legislative declaration paramount authority?

12 THE CHAIRMAN: Delegate Sherbow.

13 DELEGATE SHERBOW: To the extent that you could  
14 I would say we intend to give it paramount authority but,  
15 of course, I could conceive of a situation where on the  
16 face of the law perhaps the question could be raised. I  
17 can't tell you how I could dream it up but I am saying yes  
18 to your question, we assume that when the General Assembly  
19 has so spoken this is what is meant, this is what it is.

20 THE CHAIRMAN: Delegate James.

21





1           DELEGATE JAMES: You expect the court to accept  
2 the statement at face value if it is a reasonable state-  
3 ment of public purpose?

4           THE CHAIRMAN: Delegate Sherbow.

5           DELEGATE SHERBOW: Without question.

6           THE CHAIRMAN: Any further questions of the  
7 Committee Chairman?

8           Delegate James Clark.

9           DELEGATE CLARK: Delegate Sherbo: he last  
10 session of the Legislature acted on several occasions in  
11 authorization of bonds. Of course, many of these or most  
12 of them have not been sold at this time and perhaps will  
13 not be sold at the time this Constitution will become  
14 effective.

15           The question is, will the provisions in this  
16 Constitution apply to these authorizations which have been  
17 made and not yet sold?

18           THE CHAIRMAN: Delegate Sherbow.

19           DELEGATE SHERBOW: No, it would not for this  
20 reason. There should be and will be transitory provisions  
21



1 which would provide for the protection of the laws already  
2 passed not yet in effect but going into effect just as they  
3 would protect many of the other transitory features of  
4 what we are now in the process of doing.

5 So that you wouldn't revoke bond issues simply  
6 because the Constitution was in effect and all that had  
7 preceded it that had not yet been publicly offered would  
8 die.

9 But this is going to require a transitory pro-  
10 vision.

11 THE CHAIRMAN: Delegate James Clark.

12 DELEGATE CLARK: The question of whether it  
13 would die or not was not my main thrust. Could those  
14 bonds be sold under these provisions?

15 THE CHAIRMAN: Delegate Sherbow.

16 DELEGATE SHERBOW: They would be sold under the  
17 provisions of the law existing when they were passed.

18 THE CHAIRMAN: Delegate James Clark.

19 DELEGATE CLARK: They could never be sold under  
20 the provisions of the new Constitution?  
21



1 THE CHAIRMAN: Delegate Sherbow.

2 DELEGATE SHERBOW: Not unless the Legislature  
3 decided to repeal these laws and re-enact them because  
4 what would happen would be the transitory provision should  
5 carry them over.

6 THE CHAIRMAN: Any further questions?

7 The Chair hears none.

8 Thank you, Delegate Sherbow.

9 The Chair calls on Delegate Stern to present  
10 the Minority Report.

11 DELEGATE STERN: Mr. Chairman, members of the  
12 Committee, yesterday when I was preparing this and came in  
13 and sat down next to Delegate Storm he noticed I had a  
14 little cut and asked me what happened. I told him while  
15 preparing for this speech I was concentrating on the speech  
16 while shaving and cut myself. His advice to me was cut  
17 the speech and concentrate on shaving.

18 We have done more than that. Delegate Sherbow  
19 and I have agreed to cut control time from thirty minutes  
20 each to fifteen minutes each and I will cut my speech.

21 The statement involves quite a dry subject, as





1 you can look around and see how many of us are here. We  
2 were unable in committee to keep a reporter more than 10  
3 minutes at any time except for the lottery and I will try  
4 to keep below that limit to keep all of you here.

5 Judge Sherbow told you Maryland now has triple  
6 A rating in the bonds. This is the highest rating you can  
7 get. The higher the rating the lower the interest rate  
8 the less you pay for the money you borrow. We are talking  
9 here about general obligation bonds and general obligation  
10 bonds only. This amendment we propose is state issued  
11 bonds, has nothing to do with revenue bonds, has nothing  
12 to do with county bonds.

13 It is stipulated by the minority, what the  
14 judge said, that the mere change from 15 to 25 years would  
15 not hurt our credit rating, not in and of itself. You must  
16 look beyond that change to see what the effects are.

17 First, of course, is obvious. The longer you  
18 take to pay back the more dollars you pay out for interest.  
19 The cost is higher. Not only is the cost higher because  
20 you pay longer but the rate of interest is increased because  
21 of the additional time. We have had testimony that the



1 going from 15 to 25 years would raise the interest rate.

2 The second effect is the possibility of an in-  
3 crease in debt. By spreading the costs over a longer  
4 period of time you make lower annual payments. I use this  
5 as an example. Suppose you have a hundred dollars a month  
6 and you wish to buy a car. You know the bank will give  
7 you 36 months or three years to pay for the car, \$3600  
8 you have to pay back in principal and interest.

9 So you go down and pick yourself out a Chevy  
10 for about \$3300, assuming you can get yourself a good deal  
11 on your financing at six percent. You go to the bank and  
12 they tell you that on this particular car your payments  
13 are a hundred dollars.

14 However, of course, you are a delegate here, they  
15 see your credit is good, therefore, they will give you  
16 five years to pay. You don't have to pay a hundred dollars.  
17 You only have to pay \$63.80 a month. You say, wait a  
18 minute. You run out and you take a look at the Cortina  
19 or Sunbeam or one of those English cars to take advantage  
20 of that 14 percent devalued pound. You come back with a  
21 contract on one of the English cars. You say, now I got



1 the two contracts, I want to pay the hundred a month. I  
2 will have two cars for that same hundred dollars.

3 Now, the bank said to you, wait a minute, Mr.  
4 Delegate. We talked to you about \$3600, we thought that  
5 was pretty high and a pretty good risk for you. Now, you  
6 bring us \$6,000 in debt. We would now stop and take a look  
7 at the situation. You too now must stop and take a look at  
8 the situation.

9 Judge Sherbow asked that I don't hammer these  
10 words back to him too much but I feel we must not only  
11 his words that were written but some of his speaking words.

12 He says he now does not call this a compromise  
13 but also his words in another time like a bolt from out of  
14 the blue comes that it is not a compromise because all  
15 during committee meetings it was a compromise and until  
16 now it was not a compromise. It was a compromise until  
17 now where we hear it is not a compromise. This is some-  
18 thing else. It is a compromise.

19 Or is it really a compromise? Is it just really  
20 saying in excessive language, let's extend the bonds to  
21 25 years, a flat 25-year limitation that the General





1 Assembly will raise all its bonds to? In the last nine  
2 years in both Houses there were only five dissenting  
3 votes registered on bond issues. Look about you. How  
4 many people sit here and listen to bonds and financing?  
5 How many of the legislators will listen and not come in  
6 and vote?

7 The majority can say this offers flexibility  
8 for fiscal and financial heads of Government to arrange  
9 better bond financing. Why? Why give this flexibility  
10 when they came each and every one of them and told us they  
11 were satisfied with the current 15-year limitation? All  
12 who came before us said they favored the 15-year limitation  
13 and we were also told that if 25 years was authorized the  
14 Legislature would probably under pressure be forced to go  
15 to the limit. Herein lies the minority point. Is this  
16 really flexibility or is this 15 years versus 25 years and  
17 we say it is a flat 25-year authorization because this flag  
18 of three-fifths vote the judge talks about will never  
19 happen.

20 In probably 97 percent of the bond issues it  
21 was a unanimous vote.



1           There is another point involved here. Fifteen  
2 years is itself a compromise. There is a philosophy of  
3 pay as you go financing versus debt financing for states  
4 and 15 years serves itself as a compromise between pay as  
5 you go and debt financing.

6           Do we attach the word "compromise" or "flexibil-  
7 ity" or whatever the judge wishes to call it and get further  
8 away from pay as you go? Pay as you go was what Senator  
9 Hughes would prefer to see but accepts the 15-year compro-  
10 mise.

11           We have over the last hundred years seen vast  
12 changes. We have probably progressed far more in this  
13 past hundred years than we will probably do in the next  
14 hundred years. We have weathered not only national finan-  
15 cial crises but international crises and we still stand  
16 today with a triple A rating.

17           Why change what has lasted over a hundred years  
18 for the sole purpose of change or speculation that in the  
19 next hundred years there may be an occasion to use it.

20           It appeared to me yesterday the majority had  
21 stolen all my thunder that the majority was using all the



1 arguments I was to use today. I copied one of Judge  
2 Sherbow's sentences yesterday that he spoke. Do you want  
3 to follow what has been done or change it? This was the  
4 attitude of the majority yesterday. Today they ask for  
5 change.

6 The cost of improvements that are made by the  
7 State in debt financing will rise and rise greatly. A  
8 million dollar loan using the last bond rate will cost  
9 more than one-fourth of the loan more. If you build a  
10 million dollar building, borrow for 25 years, it will cost  
11 at least \$1,570,000 in principal and interest and probably  
12 more because we are using the rate that is established  
13 for 15 years.

14 I show you here a chart which represents the  
15 difference in blue for 15 years and in red 25 years of  
16 what the interest looks like on \$1 million using the bond  
17 rate, composite rate of 3.6674. This rate was the rate we  
18 sold our bonds in June, June 20 of this year. This dif-  
19 ference is only one million dollars.

20 Bond indebtedness, fiscal year 1967 on general  
21 obligation bonds was \$374,559,000. If they were the same





1 rate, if this proportion between the two, multiply it by  
2 374 times for the excess interest. This is what you pay  
3 when you go to 25 years.

4 Many will talk and seek the possibility of  
5 measuring maturity of bond periods to the asset that it  
6 creates or the building it creates over the useful life  
7 they call it of the facility being financed. This is  
8 very important for revenue bonds. We don't build a turn-  
9 pike five miles a year, pay for it out of current funds  
10 or small-term debts, we build it all at once. With build-  
11 ings it is different, maintenance costs rise as the building  
12 gets older. A perfect example of this is this very historic  
13 building we sit in. I am willing to venture the pointing  
14 and chipping going on around this building right today as  
15 we see it improve probably is costing the State and costing  
16 us today to maintain this building as much as the original  
17 building cost. We want to use it. We maintain it. Air-  
18 conditioning and heating units go out long before the shell  
19 does. Lighting improves and lighting must be replaced and  
20 wiring decays. If we want to use these buildings over a  
21 long period of time those that are using it in later years



1 must maintain it to satisfy their purposes then.

2 The legislative leaders who came before us went  
3 on record with a letter to us. I would like to quote from  
4 that. Perhaps I will find it as I go on.

5 Judge Sherbow spoke to you of investment bankers  
6 that came before us and stated that 25 years was adequate  
7 and fine. However, the record also shows that many of them  
8 said what I have said that they felt the pressure placed  
9 upon the legislature would, I quote Mr. Taylor, vice presi-  
10 dent of Maryland National Bank, who said the pressure for  
11 debt financing is so great that it will probably force the  
12 use of 25 years.

13 Mr. Riepe, partner of Alex Brown and Sons stated  
14 he did not think the change in maturity period would affect  
15 bond rating but pointed out that an increase in maturity  
16 from 15 to 25 years would require higher interest rating.

17 Some also will tell us it is easier to sell bonds  
18 for 25 years than at 15 years. Thomas Langford, vice presi-  
19 dent, Union Trust Company of Maryland, on a question of  
20 Mr. Abramson of our committee as to whether the 15-year  
21 limitation had created any hardship in the past, Mr.



1       Langford said he did not know of any.

2               On a question by Judge Sherbow, Mr. Langford  
3       expressed the opinion that if the permissible maturities  
4       were increased the Legislature would tend to use the longer  
5       period.

6               Letters from investment brokers show that the  
7       increase in maturity from 15 to 25 years would increase  
8       from an eighth to a quarter of a point. Again costing far  
9       more. I promised to close off early and I will close  
10      with one more statement. I spoke to a financial expert  
11      and we can sum it all in one sentence. He said, let's  
12      face it. The object of debt is to get out of it.

13              THE CHAIRMAN: Any questions of the minority  
14      spokesman?

15              Delegate Raley.

16              DELEGATE RALEY: Delegate Stern, you made quite  
17      an issue about the costs being more, going to be more inter-  
18      est cost, and that I think is the main thrust of your argu-  
19      ment.

20              Let me ask you a question. Is it not true that  
21      the general obligation bonds, that the full faith and credit





1 of the State is pledged behind, that the interest rate for  
2 those general obligation bonds is cheaper, I underline  
3 the word "cheaper", than revenue bonds?

4 THE CHAIRMAN: Delegate Stern.

5 DELEGATE STERN: Yes, it is.

6 THE CHAIRMAN: Delegate Raley.

7 DELEGATE RALEY: Do you know or can you recall  
8 how much cheaper they are?

9 THE CHAIRMAN: Delegate Stern.

10 DELEGATE STERN: I have the figures here and I  
11 am sure you do, too.

12 THE CHAIRMAN: Delegate Raley.

13 DELEGATE RALEY: Mr. Chairman, that is all right.  
14 The point that I want to make to you is that isn't it true  
15 that the revenue bonds have been financed for a much  
16 longer period, isn't that correct?

17 THE CHAIRMAN: Delegate Stern.

18 DELEGATE STERN: That is correct.

19 THE CHAIRMAN: Delegate Raley.

20 DELEGATE RALEY: Isn't it true that the reason  
21 that the state has put so much money at a much higher



1 interest rate into general revenue bonds is because of the  
2 very serious limitation that they had in the 15-year limit  
3 on general obligation bonds? Isn't that true?

4 THE CHAIRMAN: Delegate Stern.

5 DELEGATE STERN: I wouldn't say that it is com-  
6 pletely true and I wouldn't say, you are trying to make me  
7 say that is the sole reason, that is not the sole reason.  
8 Revenue bonds are completely different from general obliga-  
9 tion bonds as you well know, sir, and it is not the sole  
10 reason why so many dollars have been put into revenue  
11 bonds.

12 THE CHAIRMAN: Delegate Raley.

13 DELEGATE RALEY: It may not be the sole reason  
14 but it is certainly one of the reasons and it is one of  
15 the reasons that has cost this State millions and millions  
16 of dollars.

17 THE CHAIRMAN: Delegate Raley, this is a period  
18 for questions. You will have opportunity to debate later.

19 DELEGATE RALEY: Let me ask just one more ques-  
20 tion, then. Hasn't it to some extent although not being  
21 the only reason, hasn't it cost the State more money in



1 interest because they had to use revenue bonds instead of  
2 general obligation bonds? Hasn't it cost the State more  
3 money?

4 THE CHAIRMAN: Delegate Stern.

5 DELEGATE STERN: I will say general obligation  
6 bonds are cheaper than revenue bonds.

7 THE CHAIRMAN: Any further questions of the  
8 minority spokesman?

9 Delegate Marvin Smith.

10 DELEGATE M. SMITH: Delegate Stern, I had been  
11 inclined in the direction of your report until a comment  
12 Judge Sherbow made. I would like to ask you, sir, about  
13 Judge Sherbow's comment to the effect that many, or at  
14 least some of our counties using the 15-year bond issue  
15 have not been able to take full advantage of the moneys  
16 available to them simply because they could not afford to  
17 pay the number of dollars per year, where with a 25-year  
18 bond issue they would be able to take advantage? What have  
19 you to say, sir, about this comment of Judge Sherbow's?

20 THE CHAIRMAN: Delegate Stern.

21 DELEGATE STERN: It is speculative.





1 THE CHAIRMAN: Delegate Marvin Smith.

2 DELEGATE M. SMITH: Is it a fact, this is what  
3 I would like to get at, is it a fact that the counties  
4 have not taken full advantage of the 15-year bond issue  
5 because of the cost to them and have elected in lieu  
6 thereof to go the route of their own 25-year bond issues  
7 where their amortization costs were lower?

8 THE CHAIRMAN: Delegate Stern.

9 DELEGATE STERN: There have been some counties  
10 and there will be some counties if 25-year bonds are  
11 authorized that will not be able to afford the 25-year  
12 limit. Where do you stop, sir?

13 THE CHAIRMAN: Delegate Willis.

14 DELEGATE WILLIS: Delegate Stern, could you  
15 name any counties that are now selling school bonds for a  
16 term longer than 25 years?

17 THE CHAIRMAN: Delegate Stern.

18 DELEGATE STERN: No, I don't have the figures.

19 THE CHAIRMAN: Delegate Willis.

20 DELEGATE WILLIS: I don't believe there are any.

21 THE CHAIRMAN: Any further questions?



1 Delegate Armor.

2 DELEGATE ARMOR: Just one question of Delegate  
3 Stern.

4 Several bankers appeared before the State Finance  
5 Committee. Did one of those bankers say his bank was not  
6 interested in buying 15-year bonds?

7 THE CHAIRMAN: Delegate Stern.

8 DELEGATE STERN: I believe there was one banker  
9 who said that and I don't think that was the same banker I  
10 quoted that said they had no trouble selling 15-year bonds.

11 THE CHAIRMAN: Any further questions?

12 Delegate Weidemeyer.

13 DELEGATE WEIDEMEYER: Delegate Stern, we have  
14 been hearing about county bond issues. These provisions  
15 here, as I see them, apply only to State bond issues?

16 THE CHAIRMAN: Delegate Stern.

17 DELEGATE STERN: That is correct, sir. I found  
18 that letter and I wish to quote from this letter from the  
19 Legislative Council signed by 14 members. The last para-  
20 graph reads: "It was the unanimous opinion of this Com-  
21 mittee that there should be no change in the present



1 arrangement of a 15-year term for bond issues. The Com-  
2 mittee wished to go on record with your committee in that  
3 regard. Sincerely yours", signed by the 14 members.

4 THE CHAIRMAN: Delegate Bennett.

5 DELEGATE BENNETT: If you have a moment, Dele-  
6 gate Stern, perhaps you would elaborate a little on that  
7 philosophy as to why there should be no bond more than  
8 15 years. In that connection perhaps you would tell me why  
9 this generation perhaps that authorizes these bonds should  
10 have to pay off for an asset which our posterity will enjoy.

11 THE CHAIRMAN: The Chair will permit the ques-  
12 tion but can't refrain from pointing out the question  
13 period is for purposes of clarification and not debate.  
14 There will be a debate period.

15 Delegate Stern, can you answer the question  
16 briefly?

17 DELEGATE STERN: No, sir. The last generation  
18 paid for what we are using and we are paying for it by  
19 maintenance costs. The current generation will use it  
20 and pay for it while they are using it and the next genera-  
21 tion if they want to use the asset will have to maintain





1 the assets. It is well known that the asset wears over the  
2 years. The tile wears out on the floors, windows get  
3 scratched badly and have to be replaced, air-conditioning,  
4 if it is not put in as it was not put in many buildings,  
5 if we want to use it must be put in.. Heating units go.  
6 These are vastly far more costly than the costs of the  
7 buildings themselves. Not also included in this general  
8 construction are movable partitions, room sizes change,  
9 if you are not satisfied with the small cubicle you have  
10 when government changes and the office changes the walls  
11 must be torn down, rebuilt, reshaped to make room for  
12 larger ones. As the years go on these maintenance costs  
13 increase and they are paying for it. Why should we pay  
14 for their use now when if you do it that way they will get  
15 benefit of both?

16 In a 25-year bond of \$1 million at the 15th  
17 year less than half the principal has been paid off so  
18 that from the 15th year to the 25th year those people in  
19 that last 10 years are paying \$535,000 in principal off.  
20 They are paying double for it. This is what you are  
21 throwing upon your children and your grandchildren.



1           Mr. Chairman, one more. Knowing your interest  
2 in preserving the record I have had a color photograph and  
3 black and white photograph taken of my chart which I will  
4 give to the journal clerk.

5           THE CHAIRMAN: Be delighted to have them in the  
6 record. (Applause.)

7           While Delegate Stern returns to his desk, the  
8 Chair wants to express to him and to Delegate Sherbow,  
9 thanks for reducing the amount of time allowed for con-  
10 trolled debate and to say to the committee that in view of  
11 that the Chair would hope to reach a vote on this amend-  
12 ment before recessing for dinner. Will the pages please  
13 distribute Amendment A. This will be Amendment No. 1.

14          The Clerk will read the amendment.

15          MR. QUILLEN: Amendment No. 1 to accompany Minority  
16 Report SF-4(A), to Committee Recommendation No. SF-4, by  
17 Delegates Stern, Mentzer and Dukes:

18          On page 2 Section 6.01 State Indebtedness in  
19 lines 12 through 17, inclusive, strike out beginning with  
20 the word ", except" in line 12 down to and including the  
21 word "house" in line 17.



1           THE CHAIRMAN: The amendment having been made  
2 and seconded the Chair recognizes Delegate Stern who has  
3 15 minutes of controlled debate.

4           Delegate Stern.

5           DELEGATE STERN: I yield five minutes to Dele-  
6 gate Mentzer.

7           THE CHAIRMAN: Delegate Mentzer.

8           DELEGATE MENTZER: Mr. Chairman, Ladies and  
9 Gentlemen, I do not speak at all as a sophisticated fiscal  
10 expert but one who believes principles and issues involved  
11 in State finance should be as easily understood by the  
12 average citizen and taxpayer as those in any other section  
13 of the Constitution.

14           I would speak briefly on some aspects of State  
15 debt including practice of other States and our present  
16 debt level. The 50 States can be divided into three  
17 groups in regard to their constitutional provisions for  
18 handling of the debt. In 21 states the pay-as-you-go  
19 states, borrowing can only be authorized by constitutional  
20 amendment. In another 21 states the legislature can enact  
21 borrowing legislation but the act must be confirmed by the





1 voters in the state in a referendum. Most recently adopted  
2 state constitutions have this referendum requirement, New  
3 York, Alaska, and Michigan. This leaves eight states of  
4 which Maryland is one, without substantial constitutional  
5 limitation on creation of debt.

6 Studies have shown there is an increase in debt  
7 between each class of state. The borrowing in unrestricted  
8 states is more than double that of states which prohibit  
9 borrowing in the referendum states. I call your attention  
10 to the figures presented to us last week by a professional  
11 group which has just completed a study of Maryland's  
12 fiscal practices. National per capita average of state  
13 indebtedness in 1956 was 146. For Maryland the figure was  
14 \$225. General obligation state debt as a national average  
15 per capita was \$65. For Maryland the figure is \$104.

16 Not only is our debt heavy but it also is in-  
17 creasing. It was somewhat disturbing to me to note the  
18 increase in the amounts of state receipts which comes to  
19 us from bond issues. Last year it was nearly 12 percent.  
20 The year before it was only eight percent. The year before  
21 that seven percent. The year before that only six percent.



1 Although our debt is heavy and increasing, I do not advo-  
2 cate that Maryland join the pay-as-you-go states or have  
3 referendum requirements. We did have, however, in the past  
4 in Maryland three protections which the majority report  
5 would change. A prohibition against loan of state assets  
6 or credit to private individuals or enterprises, two, the  
7 requirement of an annual dedicated tax for debt service,  
8 the State Property Tax, and, three, the maturing limit  
9 of 15 years. To lose these three protections is a dis-  
10 service to future citizens and taxpayers of this State. We  
11 are all proud of our triple A rating which only ten other  
12 states have. This is a great savings of interest cost to  
13 our taxpayers. Maryland has borrowed with discretion in  
14 the past and has retired her debt in shorter time than  
15 most states. This good fiscal management has resulted in  
16 the high rating by the bond houses. In our committee files  
17 is a statement by the vice president of Moody's, "the level  
18 of debt is very important for credit rating and an aggres-  
19 sive debt retirement program is essential".

20 I would like to explain why the level of debt  
21 would rise with an extension of the length of bonds. Taxes





1 and bonds are alternative and complementary sources for  
2 financing the activities and expenditures of the State.  
3 Since future taxpayers are not present voters, there is a  
4 political incentive to shift the cost of these activities  
5 to the future. That is to borrow rather than to tax.  
6 Borrowing can be used as an expedient to avoid taxation  
7 or avoid a reduction in level of services.

8 All expenditures must be borne by revenues of  
9 the State. We are told we are now spending 34 cents  
10 interest for each borrowed dollar and the extension would  
11 mean we would pay 57 cents on every borrowed dollar. In  
12 postponing paying through borrowing the State does incur  
13 additional cost in the form of higher interest charges.

14 Finally, I would like to speak briefly about  
15 flexibility. I think, too, this is important but I get a  
16 different answer than extension of the maturing length.  
17 The significant factor to be observed in arranging the  
18 term of the debt is the effect of the debt on state finances.  
19 The existence of debt lessens the state's freedom of action  
20 in financial matters, it compels the state to apportion a  
21 part of its current revenues in a predetermined and fixed





1 manner. It reduces the state's ability to meet new demand  
2 and new emergencies. New conditions may arise in which  
3 the State will need all possible freedom of action to  
4 change its disposition of its revenue.

5 THE CHAIRMAN: Your time has expired.

6 DELEGATE MENTZER: One more sentence. The  
7 longer its debts run the longer the State has to wait for  
8 such freedom and in this sense a 25-year term gives far  
9 less flexibility -- the 15-year gives far greater flexi-  
10 bility than a 25-year one and I am glad to sponsor this  
11 amendment.

12 THE CHAIRMAN: Delegate Sherbow.

13 DELEGATE SHERBOW: I yield up to seven minutes  
14 to Delegate Case.

15 THE CHAIRMAN: Delegate Case.

16 DELEGATE CASE: Mr. Chairman, Ladies and Gentle-  
17 men of the Committee, early in October when the matter of  
18 the maturity of state bonds was before the Committee on  
19 State Finance and Taxation, I wrote a letter to the editor  
20 of the Baltimore Sun which was reprinted and placed on  
21 every delegate's desk. That letter stated the case for a



1 maturity limit of state bonds of up to 25 years. To  
2 refresh your memory I would like to make to you tonight  
3 the salient points I made in that letter.

4 The case for 25-year maturity limit for state  
5 bond indebtedness is as follows: First, the maturity of  
6 state bonds should equate to the life of the facility for  
7 which the monies are borrowed to erect. As much as I hate  
8 to disagree with my good friend, Delegate Stern, it is in-  
9 correct that this principle is applicable to revenue bonds  
10 and not to general obligation bonds.

11 All the teachings and all of the lexicon of  
12 financing states exactly to the contrary. This principle  
13 is applicable to general obligation bonds. Quite to the  
14 contrary, the maturity of revenue bonds is fixed not by  
15 the length of the asset's life for which the bonds are  
16 floated but rather based upon the tolls that can be col-  
17 lected from the revenue facilities. The case in point is  
18 the Kennedy Expressway, a transaction in which I approved  
19 the bond issue of the state. There we started by determin-  
20 ing what the tolls could be, what the traffic would bear.  
21 When that figure was determined, we worked out what length





1 of maturity bond issue could be sustained by that amount of  
2 tolls. So just to the contrary of what Delegate Stern has  
3 told you, in a revenue bond financing the length of the  
4 facility is based upon the tolls you can collect from the  
5 bridge or road or building you are erecting and a general  
6 obligation bond issue the length of time of the bond issue  
7 is equated to the life of the facility.

8 The facilities for which these bonds are to be  
9 issued in the future will last for at least 25 years and,  
10 therefore, a 25-year limit is the more practical time.

11 Secondly, a 25-year maturity limit would attract  
12 a larger group of buyers for the bonds. The testimony was  
13 clear and unequivocal before our Committee that the longer  
14 the maturity the better the market for the bonds. The  
15 reason for this is, ladies and gentlemen, that there are  
16 a number of buyers of municipal bonds who will not buy 15-  
17 year bonds. Insurance companies are a case in point. They  
18 will buy 25-year bond maturities; they do not want 15-year  
19 bond maturities. This means we would have a large market  
20 for the bonds and as Judge Sherbow has expressed since the  
21 credit rating and interest rates are based upon the market





1 place, since the market place is based on the law of supply  
2 and demand the more demand you have the better your bond  
3 issue.

4 Thirdly, the 25-year bond limit or maturity  
5 limit would encourage more political subdivisions to use  
6 the state aid which is granted under certain programs we  
7 now have in this State. The questions which Delegate  
8 Marvin Smith raised are right at point. Today there is  
9 one political subdivision which because of the limit of  
10 15 years on the state maturities has simply not used one of  
11 the major programs in our State, namely the program of  
12 financing state schools.

13 Another political subdivision, the one from which  
14 Delegate Mentzer and Delegate Stern come, has only partially  
15 used this program because of the restrictive feature of the  
16 15-year limitation. Montgomery County has used it only  
17 sparingly and, indeed, the Governor's own chief fiscal ex-  
18 pert has worked up a memorandum showing in Montgomery County  
19 to use the state program would cost that county much more  
20 money than it would if it sold its own bonds at a 25-year  
21 limit.



1           Fourthly, perhaps as important as any of the  
2 points I have already made, a 25-year limit will give the  
3 State fiscal experts the opportunity to make a more mean-  
4 ingful fiscal mix. By that I mean a more meaningful fiscal  
5 planning can be achieved if 25 years is used in conjunc-  
6 tion with 20 years, 15 years, and perhaps even 10 years.  
7 As it stands now, the State is in a virtual straitjacket.  
8 It must issue for 15 years. To my certain knowledge it  
9 has never issued for anything less. If 25 years were the  
10 rule it could issue something less in certain instances.  
11 This is borne out by the record in Montgomery County, for  
12 example, where a number of bond issues have been issued  
13 for 12 years but a number more have been issued for 25.

14           Fifthly, perhaps even more important than the  
15 four points I have already made, is the fact that knowledge-  
16 able people in the field have recommended to me in writing  
17 that with a 25-year bond maturity limit the State's finan-  
18 cial situation would have more flexibility and that having  
19 more flexibility, the State would have a greater chance to  
20 retain the credit rating it now has than if it sticks to  
21 15-year limitation. I can't overemphasize this point to





1 you, ladies and gentlemen. People who know this subject  
2 say that in the future if the limit goes to 25 years, the  
3 State's ~~chances~~ of retaining its triple A credit rating  
4 are greater than if the State retains a rigid 15-year limi-  
5 tation.

6 THE CHAIRMAN: You have one-half minute, Dele-  
7 gate Case.

8 DELEGATE CASE: I would like to say to you that  
9 the letter I spoke to you about was sent to all of the  
10 rating agencies, the principal rating agency, Standard and  
11 Poors, wrote me the following: "Dear Mr. Case: Your  
12 letter to the editor of the Baltimore Sun was an excellent  
13 dissertation and one in which we concur."

14 So it stands on the record, and these letters  
15 are available for anybody to look at, that the rating  
16 agencies agree that the 25-year limitation is one which we  
17 should adopt.

18 Mr. Chairman, may I have an extension of my  
19 time?

20 THE CHAIRMAN: If Delegate Sherbow allows it.

21 DELEGATE SHERBOW: I will extend it.





1 THE CHAIRMAN: Delegate Case.

2 DELEGATE CASE: I should now like to turn to the  
3 points made by the minority spokesman. He admits out of  
4 hand that the change in and of itself will not affect the  
5 State's credit rating. This is a point which was made by  
6 the so-called, by the fiscal experts and by the legisla-  
7 tive leaders who came before us. This now is out of the  
8 case. It is admitted that this change in and of itself  
9 will not affect the State's credit rating.

10 What the minority spokesman says to you is that  
11 the Legislature will bow to pressure of debt financing and  
12 that there will be a proliferation of State debt and pro-  
13 liferation of State debt will in time erode the State's  
14 credit rating. This point is true whether you make it 25  
15 years or leave it at 15. The fact of the matter is that  
16 the more debts you have as related to your assessable base,  
17 the less likely you are to have a good credit rating. I  
18 say to you, ladies and gentlemen, we have been here now  
19 almost three months and one of the themes we have heard  
20 during all this time is we must put our faith in the  
21 Legislature. We are strengthening the Legislature and I



1 say to you I think the Legislature is able to cope with  
2 this problem.

3 Using ~~Again~~ Delegate Stern's own county here  
4 is a county which has an unlimited period of time in which  
5 to issue its bonds. During the last 10 years this county  
6 has issued \$144 million in bond indebtedness. They have  
7 all been 25 years. This is the norm throughout the State.  
8 <sup>is</sup> I suggest to you that/the proper thing for the State to  
9 have.

10 The final point Delegate Stern made was that  
11 if you issue a bond for 25 years you are going to pay more  
12 interest than you do for 15. This, of course, is true by  
13 simple mathematics but don't forget you are having the use  
14 of the money longer. Interest is only the wages of money.  
15 The longer you have the use of the money the longer you  
16 pay the wages of that use. Hence it follows mathematically  
17 you are going to pay more but on the side the point is you  
18 have had the use of the money longer.

19 Finally, it has been suggested the fiscal ex-  
20 perts in the State have suggested that 15 years is the only  
21 criterion. Again, I must respectfully dissent from the





1 statements made by the spokesman for the minority. I have  
2 spoken personally to every legislative leader and every  
3 legislative leader says they adopt and subscribe to the  
4 Committee's recommendation. I have spoken to the two top  
5 State fiscal experts who deal with this subject in the  
6 State of Maryland. I have in my file available for any-  
7 body to look at who cares to look at it statements from  
8 both of them that the 25-year, 15-year provision which  
9 has been recommended by the majority is a salutary provi-  
10 sion and should be adopted.

11 Ladies and gentlemen of the Committee, I sin-  
12 cerely hope that the recommendation of the minority is  
13 rejected for the welfare of our State.

14 THE CHAIRMAN: Delegate Stern.

15 DELEGATE STERN: I yield to Delegate Clark.

16 THE CHAIRMAN: How much?

17 DELEGATE STERN: Three minutes.

18 THE CHAIRMAN: Delegate James Clark.

19 DELEGATE CLARK: Mr. Chairman, Ladies and Gentle-  
20 men of the Convention, for one who has been trying to  
21 nudge the State toward a partial pay-as-you-go basis on  
its capital improvements the compromise before us today





1 is a little distressing. Only this year for the first  
2 time we were able to pay \$10 million from current revenues  
3 for some of our capital improvements which were needed.  
4 As you know, over the years we have issued bonds  
5 for approximately \$30 or \$40 million a year. Of course,  
6 these have been 15-year revenue bonds.

7 For those of us who believe in a pay-as-you-go  
8 basis or at least an approach to it, when you get away  
9 from 15-year bonds you are just going in the other direc-  
10 tion at the very time when we thought maybe we were doing  
11 a better job than we had done before.

12 I think we have to look at the whole picture.  
13 You have the political subdivisions of this State faced  
14 with problems which call for great sums of money. My  
15 county, for instance, is called upon every year now to  
16 build millions of dollars worth of schools, borrow millions  
17 of dollars for water and sewage facilities and in a sense  
18 we are not only citizens of Howard County or Montgomery  
19 or any other county of this State but also citizens of the  
20 State. We have these obligations which are being made  
21 almost every month in my county and I am sure this is the



1 case in most counties of the State, most of those bonds as  
2 we are told and know are for 25 years, some are for as much  
3 as 40 years. So I would say that the State which has the  
4 greater resources and can stick with the 15-year bonds,  
5 perhaps we should at this level of government hold with the  
6 15-year bonds.

7 The chart which was displayed here by the  
8 speaker for the minority should underscore the point more  
9 strongly than certainly any words could do. For every  
10 million dollars you borrow, for 25 years, rather than 15,  
11 you have to pay about \$300,000 more money.

12 THE CHAIRMAN: You have a half minute, Delegate  
13 Clark.

14 DELEGATE CLARK: If we go back and count the  
15 hundreds of millions of dollars this State has borrowed in  
16 the recent past on 15-year bonds, multiply that by \$300,000,  
17 you can see that we have saved untold millions of dollars.

18 For these reasons, I would hope that we would  
19 continue this practice which has served us so well for so  
20 long.

21 THE CHAIRMAN: Delegate Sherbow.





1 DELEGATE SHERBOW: Five minutes to Delegate  
2 Willis.

3 THE CHAIRMAN: Delegate Willis.

4 DELEGATE WILLIS: Mr. Chairman, fellow delegates,  
5 I wish to speak against the amendment. In 1949 the State  
6 of Maryland initiated a school construction program under  
7 which the State allowed the county school systems to utilize  
8 the State's credit for school construction. This was  
9 accomplished by selling State bond issues and loaning this  
10 money to the counties for their school construction.  
11 These were, of course, 15-year bonds. This program has  
12 never reached its maximum potential because even though it  
13 has been utilized to the extent of \$275 million in 19  
14 years many school systems have not felt they could afford  
15 to take full advantage of it. For instance, Baltimore City  
16 and Dorchester County have never used one cent from this  
17 program.

18 Many other school systems have used it only in  
19 emergencies.

20 These 15-year bonds are paid back in 13 years,  
21 no payments are made in the first two years. This makes  
the annual cost practically twice as much as when we sell





1 our own 25-year bonds. The total amount paid annually for  
2 school construction costs is closely related to the quality  
3 of our educational program. Research in school  
4 finance points up that in a growing school system school  
5 construction requires one dollar of every eight of the  
6 annual school budget. When this school construction cost  
7 gets so high that it requires one dollar in every six  
8 rather than one in every eight, the ongoing school program  
9 begins to suffer. Beyond that point we begin to look to  
10 the school costs first as we do a mortgage on our home and  
11 the money is diverted from where it should go, instruction  
12 in the class room, to paying school construction costs.

13 So as in a mortgage when times are tough and  
14 we have a job meeting mortgage payments we have to do without  
15 something else. In the case of education what we do  
16 without is a high level of education in the class rooms in  
17 the particular years when we are caught short.

18 In our school systems we have to plan ahead so  
19 that we will not get into a situation where a school program  
20 suffers. School officials must plan their capital  
21 construction programs in such a way that they will not



1 over-burden their current operating budgets with excessive  
2 debt service costs to the detriment of their ongoing edu-  
3 cational program. If the State could sell its school con-  
4 struction loan bonds for 25-year maturity period rather  
5 than 15-year periods that we now have it would be a  
6 great help to all of our local school systems and would  
7 save us funds in every school system in the State.

8 I urge the support of the committee report.

9 THE CHAIRMAN: Delegate Stern.

10 DELEGATE STERN: I yield three minutes to Dele-  
11 gate Hostetter.

12 THE CHAIRMAN: Delegate Hostetter.

13 DELEGATE HOSTETTER: Mr. Chairman, members of  
14 the Committee of the Whole, I feel much like the bantam  
15 rooster in the barnyard when he looked up at the mule and  
16 said, "let's be careful about stepping on one another  
17 around here", when I follow the fiscal giants.

18 The majority indicated in its report that it had  
19 a letter from Moody's and Standard and Poors saying the in-  
20 crease from 15 to 25 years will not affect the State's  
21 triple A rating. However, in my county, Cecil County,





1 about two years ago we had pending before the General  
2 Assembly a \$4 million bond issue. At that time one of the  
3 credit rating organizations was contacted and requested to  
4 give us a statement as to whether or not our credit rating  
5 would be affected by this bond issue.

6 The bond issue passed. Two weeks after it passed  
7 our county rating dropped from triple A to double A.

8 I believe that the past limitation of 15 years  
9 on authorization of indebtedness has had a very beneficial  
10 effect on Maryland's credit rating and again I would like  
11 to make a quote here from the majority report stating that  
12 the 15-year maturity limitation has served the State well,  
13 it has reduced interest costs and has helped to hold down  
14 the amount of State debt. It is one of the State factors  
15 contributing to the high rating enjoyed by general obliga-  
16 tion bonds of the State of Maryland.

17 It would appear that by extending this time  
18 there is no doubt but what in the future some time our  
19 credit rating would be affected. As far as cost is con-  
20 cerned I am not going to bother you with a bunch of  
21 arithmetic but by extending from the 15-year period to





1 25-year period an increase in interest cost of 76 percent  
2 results.

3 I submit that it take no Einstein to see that  
4 the taxpayer is being placed at a distinct disadvantage  
5 from this standpoint.

6 I, therefore, support the amendment.

7 THE CHAIRMAN: Delegate Sherbow, you have one  
8 minute you may yield.

9 DELEGATE SHERBOW: I yield that one minute to  
10 you.

11 THE CHAIRMAN: Thank you.

12 Delegate Stern.

13 DELEGATE STERN: Three minutes to Delegate  
14 Henderson.

15 THE CHAIRMAN: Delegate Henderson.

16 DELEGATE HENDERSON: Mr. Chairman, fellow dele-  
17 gates, it seems to me the fatal tendency in governments is to  
18 borrow rather than paying their way. We see an example  
19 of that in Washington where we have had an unbalanced budget  
20 for nearly 50 years. The dead horse which is around all  
21 our necks has to be paid off or it results in defalcation  
and inflation and has all sorts of disadvantages.



1           We have been blessed in this State I think by  
2     paying our way and having a balanced budget over those same  
3     years. We have been able to pay off our indebtedness as  
4     it fell due in the 15-year period. If we had had 25-year  
5     periods permitted I think we would have an entirely dif-  
6     ferent picture.

7           To talk of this proposition as a compromise seems  
8     to me to be ridiculous. As Delegate Stern pointed out,  
9     the history is these bond issues are passed almost as a  
10    matter of course by the Legislature so that the three-fifths  
11    would be no protection. I predict if this amendment passes  
12    all our bonds from here on will be for 25 years. Not only  
13    because of the fact it imposes a smaller annual charge but  
14    because these bonds being tax exempt are very popular with  
15    the investors and the longer the better. That is the rea-  
16    son the bankers and the investment brokers favor the  
17    longer term. They will undoubtedly put pressure on the  
18    Legislature to give them what they want.

19           I think this has been a great salvation and a  
20    wonderful thing for the taxpayers of Maryland. To extend it  
21    to 25 years would be a great mistake, in my humble opinion.





1 THE CHAIRMAN: Delegate Stern.

2 DELEGATE STERN: How much time remains?

3 THE CHAIRMAN: Two minutes.

4 DELEGATE STERN: I will take those.

5 I would like to answer some of the statements  
6 made by the majority. The majority has told you here ex-  
7 actly what I said would happen at the Legislature that the  
8 debt limit would rise. The people like Dr. Willis who come  
9 with school programs, Prince Georges County, Montgomery  
10 County will come with school programs and that the first  
11 bond issue would have to be increased to cover these pro-  
12 grams and we will raise our debts. Our debt ceiling will  
13 reach a point that although schools will be built long  
14 after Dr. Willis leaves the county the following students  
15 will not have the school to go to because we will not be  
16 able to borrow at an economical rate, our rating will go down,  
17 that the interest cost on 25 years will be prohibitive in  
18 and of itself, that like Judge Henderson has said certainly  
19 the investors want 25 years. We have been told 25 years  
20 offers highest interest rates. Certainly they would prefer  
21 to buy bonds at a higher interest rate. We have had no





1 trouble, no trouble on our bonds at 15 years at a lower  
2 interest rate.

3 Delegate Case tells us over the years it is  
4 probably cheaper. He is absolutely right. I worked it  
5 out. Three bond issues 25 years 75, 15 bond issues, 15  
6 years, 75 years, interest between the two 25-year bond  
7 issue is \$4,585 less using the rate on the chart but the  
8 difference is that we have used \$5 million in that 75-year  
9 period instead of \$3 million for the same long period of  
10 time.

11 I urge you to vote for this amendment, keep the  
12 limitation we have had. In the words of Judge Sherbow, do  
13 you want to make a change or do you want to keep what we  
14 have?

15 THE CHAIRMAN: There is now available a period  
16 of uncontrolled debate. In view of the very complete  
17 presentation by both the majority and the minority the  
18 Chair would hope this would be kept to a minimum. Are  
19 there any -- ready for the question?

20 The question arises on the Amendment No. 1.

21 The Clerk will ring the quorum bell.



1           The question arises on Amendment No. 1, a vote  
2           Aye is a vote in favor of the amendment. A vote No is a  
3           vote against the amendment.

4           Cast your votes.

5           Has every delegate voted?

6           Does any delegate desire to change his vote?

7           The Clerk will record the vote.

8           There being 44 votes in the affirmative and 61  
9           in the negative, the motion is lost. The amendment fails.  
10          There is one other amendment of which the Chair has knowledge  
11          or two other amendments with respect to this section.

12          Delegate Mentzer, do you still desire to offer  
13          your amendment C?

14          DELEGATE MENTZER: I would rather offer it  
15          tomorrow morning.

16          THE CHAIRMAN: Let the Chair ask you this:  
17          How long do you think it would take for the presentation  
18          of your amendment? You are entitled to 10 minutes, would  
19          you take that long?

20          DELEGATE MENTZER: No, I am sure it wouldn't  
21          take more than five.



1 THE CHAIRMAN: Delegate Grumbacher, do you still  
2 desire to offer your Amendment B?

3 DELEGATE GRUMBACHER: Yes, I would like to.

4 My amendment won't take time. It is the recon-  
5 sideration that takes all the time with mine. (Laughter.)

6 THE CHAIRMAN: The Chair would like to dispose  
7 of this. If you feel very strongly, Delegate Mentzer, you  
8 would rather present your amendment tomorrow. Very well,  
9 thank you.

10 Pages will please distribute Amendment C. This  
11 will be Amendment No. 2. The Clerk will read the amend-  
12 ment.

13 MR. QUILLEN: Amendment No. 2 to Committee  
14 Recommendation No. SF-4, by Delegate Mentzer:

15 On page 2 Section 6.01 State Indebtedness in  
16 line 15 after the word "years" add the following words:  
17 "upon the prior certification of need by the governor and".

18 THE CHAIRMAN: The amendment is submitted by  
19 Delegate Mentzer.

20 Is there a second?

21 (Whereupon, the motion was seconded.)





1 THE CHAIRMAN: The amendment having been  
2 seconded, the Chair recognizes Delegate Mentzer to speak  
3 to the amendment.

4 DELEGATE MENTZER: This amendment would put one  
5 further brake or step upon the State in going from 15 to  
6 25 years in that it would require certification of need  
7 by the Governor before the General Assembly could go ahead  
8 with its three-fifths vote to have the 25-year limitation  
9 on bonds.

10 The reason -- I don't want to repeat why I feel  
11 it necessary to put whatever protection we can in our  
12 Constitution for this extension.

13 I would like to briefly read from a letter re-  
14 ceived by our Committee on October 30 from Governor Agnew  
15 who favored the extension to 25 years under certain condi-  
16 tions.

17 As I stated in my address to the Convention on  
18 September 29, I share the concern of respected and experi-  
19 enced State fiscal experts over the impact of any bond  
20 period extension on the credit rating of the State. None-  
21 theless, we can see and must face a need to implement



1 unusual and massive programs to purify our air and waters,  
2 to provide modern transportation systems and to meet the  
3 present challenge to public safety.

4 Bond issues for such programs cannot be  
5 amortized over a 15-year period without a dramatic increase  
6 in the current tax burden. Furthermore, the beneficial  
7 life of the improvements growing out of such programs  
8 would justify liquidation over a longer period.

9 The period for bond amortization is a contro-  
10 versial issue and reconciliation of differing views seems  
11 to be in order. Alternatives should be explored and I sug-  
12 gest as one possibility the retention of our 15-year limi-  
13 tation, with extension in particular cases up to a 25-year  
14 maximum. Exceptional extensions should be limited by the  
15 Constitution to those instances when the Governor certifies  
16 the necessity for such action and a three-fifths majority  
17 vote of both houses of the General Assembly concurs.

18 Following this suggestion of the Governor, I  
19 wish to, not upon request of the Governor in any way, but  
20 because I feel it is an added brake, I wish to submit this  
21 amendment.



1 THE CHAIRMAN: Delegate Sherbow.

2 DELEGATE SHERBOW: Mr. Chairman, Ladies and  
3 Gentlemen of the Committee, I urge you to vote against  
4 this amendment. When the Governor submits his capital  
5 budget with the bond issues that follow from them this  
6 means he is submitting it and this is his prior approval  
7 urging the Legislature to act on his capital improvement  
8 program.

9 If the Legislature decides on its own that it  
10 is going to initiate any form of what we call supplementary  
11 appropriation in the form of additional capital expendi-  
12 tures, then the Legislature has a much greater deterrent  
13 than what is asked for here. The Legislature has to provide  
14 the taxes for it.

15 We think you have all the brakes each way, the  
16 system now in operation is much better than a prior veto  
17 such as this new form of legislation imbedded in the Con-  
18 stitution. I hope you will vote against the amendment.

19 THE CHAIRMAN: Any other delegate desire to speak  
20 in favor of the amendment? Any other delegate desire to  
21 speak in opposition?





1 Ready for the question?

2 The question arises upon the adoption of Amend-  
3 ment No. 2. A vote Aye is a vote in favor of the amendment.  
4 A vote No is a vote against.

5 Cast your votes.

6 Have all delegates voted?

7 Does any delegate desire to change his vote?

8 The Clerk will record the vote.

9 There being 34 votes in the affirmative and 65  
10 in the negative, the motion fails. The amendment is lost.

11 Pages will please distribute Amendment B, B  
12 for Baker. This will be Amendment No. 2.

13 The Clerk will read the amendment.

14 MR. QUILLEN: Amendment No. 3 to Committee Recom-  
15 mendation SF04, by Delegate Grumbacher:

16 On page 2 Section 6.01 State Indebtedness strike  
17 out the last sentence beginning with the word "All" in line  
18 10 and extending through the word "house." in line 17.

19 THE CHAIRMAN: The amendment has been submitted  
20 by Delegate Grumbacher.

21 Is there a second?



1 (Whereupon, the motion was seconded.)

2 THE CHAIRMAN: The amendment having been seconded  
3 the Chair calls on Delegate Grumbacher.

4 DELEGATE GRUMBACHER: Mr. Chairman, members of  
5 the Committee, I will make my presentation as brief as  
6 Delegate Mentzer's, but I hope not end up the same way.

7 This amendment deletes the section which puts a  
8 limitation upon the years that the Legislature can authorize  
9 debt. The problem that has faced me in listening to the  
10 debated has been that rather consistently people have  
11 talked about the Legislature doing this. It is really the  
12 Legislature and the Governor who will set the pattern of  
13 debt for this State, not the Legislature alone.

14 With the increasing sophistication of both the  
15 Governor and his fiscal authorities and the Legislature  
16 and their advisors, I think the doubts and worries we have  
17 about them going down the garden path are not really worth  
18 worrying about.

19 The advantage to extending the debt, a major one,  
20 is that the counties could do for themselves, could use the  
21 State's credit for such things as water and sewer systems,





1 25 years is not enough for them in many cases.

2 I would like to join the majority and the minority  
3 on this last thing in selective quotation, selective cita-  
4 tion. From Moody's Investors Services, credit status in-  
5 volves consideration of a much larger number of factors  
6 and, of course, depends even more on what the government  
7 does than on what it may be empowered to do. Students of  
8 government have seen any number of ingenious methods of  
9 financing which were not envisioned by drafters of consti-  
10 tutions.

11 From another organization who asked it not be  
12 named, who does a great deal of work in this field, and is  
13 nationally known for it, it says that the present limita-  
14 tions under readily conceivable circumstances could be-  
15 come unduly restrictive and then elicit a remedial action  
16 which could be detrimental.

17 Facts are very difficult to come by. We hear  
18 opinions consistently, continuously on these subject.

19 However, in comparing the restrictiveness of  
20 constitutions to the ratings held by the various states I  
21 have found that there is almost no correlation among these





1 states which have double A and triple A ratings. Those  
2 which have the lower ratings have a substantial tendency  
3 toward more restrictive constitutions. In other words,  
4 the moment you become more restrictive you are asking the  
5 legislature and the governor to hunt for different ways  
6 and more costly ways to finance the government.

7 So let us give, we do not know what the future  
8 financing pattern will be in this country, we don't know  
9 how money will be raised in the future for any great  
10 length of time. Let us instead give some flexibility,  
11 some real flexibility goes to the governor and the legisla-  
12 ture in setting our own financial pattern.

13 THE CHAIRMAN: Delegate Sherbow.

14 DELEGATE SHERBOW: Mr. Chairman, Ladies and  
15 Gentlemen of the Committee, I hope you will vote against  
16 this amendment. This provides no restriction whatsoever.  
17 It is open end. There is no maturity limitation. It is  
18 against everything that Maryland has ever stood for in the  
19 way of fiscal responsibility. I hope you will vote no.

20 THE CHAIRMAN: Any further discussion?

21 Ready for the question?



1           The Clerk will ring the quorum bell.

2           The question arises on the adoption of Amend-  
3       ment No. 3. A vote Aye is a vote in favor of the amend-  
4       ment. A vote No, a vote against.

5           Cast your vote.

6           Has every delegate voted?

7           Does any delegate desire to change his vote?

8       The Clerk will record the vote.

9           There being 17 votes in the affirmative and 79  
10       in the negative, the motion is lost and the amendment is  
11       rejected.

12           The Chair was in error a moment ago. There is  
13       one other amendment I think. Delegate Mentzer, do you  
14       still desire to offer your Amendment D to Section 602?

15           DELEGATE MENTZER: Yes, I desire, but I hope not  
16       tonight.

17           THE CHAIRMAN: Are there any other -- the plea  
18       in the voice means the Chair can't possibly push on. Are  
19       there any other amendments to Section 6.01? We will carry  
20       over.

21           Delegate Mentzer.



1 DELEGATE MENTZER: This doesn't seem to be my  
2 night but I prefer to finish it. It shouldn't take that  
3 long, I don't think.

4 THE CHAIRMAN: Are there any amendments to  
5 Section 6.01?

6 If not, the pages will distribute, with the thanks  
7 of the Chairman to Delegate Mentzer, Amendment D.

8 This will be Amendment No. 4.

9 The Clerk will read the amendment.

10 MR. QUILLEN: Amendment No. 4 to Committee  
11 Recommendation SF-4 by Delegate Mentzer:

12 On page 2 strike out all of Section 6.02 Gift  
13 or Loan of Assets or Credit and insert in lieu thereof the  
14 following:

15 "Section 6.02 Gift or Loan of Credit

16 The credit of the State shall not in any manner  
17 or for any purpose be given or loaned to or in aid of any  
18 individual, private association or private corporation."

19 THE CHAIRMAN: The amendment is submitted by  
20 Delegate Mentzer.

21 Is there a second?





1 (Whereupon, the motion was seconded.)

2 THE CHAIRMAN: The amendment having been seconded,  
3 the Chair recognizes Delegate Mentzer.

4 DELEGATE MENTZER: Those of you who are familiar  
5 with the present Constitution will undoubtedly recognize  
6 that this phrase occurs in nearly similar form in the pre-  
7 sent Constitution. Section 34 of Article 3: In the draft  
8 commission report they state that the Commission is fully  
9 mindful of the very strong arguments which can be made for  
10 a complete prohibition of a gift or loan of credit or a  
11 loan of assets.

12 We did not hear these strong arguments in the  
13 Taxation Committee as far as I remember and I introduced  
14 this really to get further clarification along the way. I  
15 do not feel that the public purpose as Judge Sherbow  
16 pointed out, himself, can be circumscribed with any pre-  
17 cise meaning at all. A research paper prepared for the  
18 Convention said the phrase "public purpose" in Maryland as  
19 well as in other states has no exact definition in law.  
20 Cases in Maryland and elsewhere have used this phrase in  
21 a flexible manner. That flexibility of the phrase would



1 allow changing social and economic conditions to be met  
2 but it has an aspect of vagueness and possibility of frequent  
3 judicial review. It is one of those litigation breeder  
4 words. I think in Maryland we have seen that giving the  
5 assets of the State can be done in the most flexible manner  
6 as we have done it in the past, no doubt will continue to  
7 do it in the future, but I do not like the idea of giving  
8 other than assets to groups and which could be private  
9 groups, organizations or individuals and have it serve  
10 only a public purpose. A gift of assets is a one-time-only  
11 thing, but the gift of credit or loan of credit continues  
12 into the future and I think this is not a step forward for  
13 Maryland.

14 THE CHAIRMAN: Delegate Sherbow.

15 DELEGATE SHERBOW: Mr. Chairman, Ladies and  
16 Gentlemen, I hope you will vote against this amendment.  
17 In the years past, Maryland has aided schools. We have  
18 helped Johns Hopkins. We have helped hospitals. We have  
19 helped the Provident Hospital. We have helped institutions  
20 of this nature. We have been very, very careful in when  
21 and how it was done.





1           This would be a tremendous step backward because  
2 in the years to come there will be gigantic federal match-  
3 ing funds and projects. What will we do? Will we say the  
4 only way Maryland can ever act is to have only help for  
5 those which are State institutions? What a step backward.  
6 The Court of Appeals in the Horace Mann case said, they  
7 made it perfectly clear, I have it there in mimeographed  
8 form here it is in printed form. Court of Appeals speaking,  
9 we have heard of no Maryland case denying right of  
10 the Legislature to make grants to private institutions  
11 provided money is appropriated and expended for a public  
12 use, here is a long list of cases where this was done.

13           I urge you not to tie us down forever, put us  
14 back a hundred years, and prevent the State from really  
15 and truly moving into the next century. I ask you to vote  
16 no.

17           THE CHAIRMAN: Any further --

18           Delegate Mentzer.

19           DELEGATE MENTZER: We have done these things in  
20 the past with this prohibition in our Constitution through  
21 this liberal construction of gift of assets. I just don't





1 understand Judge Sherbow's argument.

2 THE CHAIRMAN: Is there any further discussion?  
3 Delegate Gallagher.

4 DELEGATE GALLAGHER: Delegate Mentzer, in read-  
5 ing Article 3, Section 34 of the present Constitution,  
6 the precise sentence is "The credit of the State shall  
7 not in any manner be given or loaned to or in aid of any  
8 individual, association or corporation."

9 The language of your amendment No. 4, you have  
10 added the words "for any purpose", so that the credit of  
11 the State shall not in any manner or for any purpose be  
12 given or loaned. What is the significance of the inclu-  
13 sion of the phrase "or for any purpose"?

14 THE CHAIRMAN: Delegate Mentzer.

15 DELEGATE MENTZER: The idea was to avoid the  
16 words "public purpose" because I felt they were vague  
17 and would just have to be determined by court decisions  
18 over and over again.

19 THE CHAIRMAN: Any further discussion?

20 Ready for the question?

21 The Clerk will ring the quorum bell.



1                   The question arises on adoption of Amendment  
2 No. 4. A vote Aye is a vote in favor of the amendment. A  
3 vote No is a vote against.

4                   Cast your vote.

5                   Have all delegates voted?

6                   Does any delegate desire to change his vote?  
7 The Clerk will record the vote. There being nine votes  
8 in the affirmative and 82 in the negative, the motion is  
9 lost. The amendment is rejected.

10                  Are there any other amendments to Section 6.02?

11                  If not, the question arises on the approval of  
12 Committee Recommendation No. SF-4.

13                  Is there any discussion?

14                  Are you ready for the question? A vote Aye is  
15 a vote in favor of the approval of Committee Recommendation  
16 SF-4. A vote No is a vote against the recommendation.

17                  Cast your vote.

18                  Has every delegate voted?

19                  Does any delegate desire to change his vote?

20                  The Clerk will record the vote.

21                  There being 84 votes in the affirmative and 12  
in the negative the Committee Recommendation No. SF-4 is



1 approved.

2 The Chair recognizes Delegate Powers.

3 DELEGATE POWERS: Mr. Chairman, I move the  
4 Committee of the Whole rise and report its approval of  
5 Committee Recommendation SF-3 and Committee Recommendation  
6 SF-4.

7 THE CHAIRMAN: Is there a second?

8 (Whereupon, the motion was seconded.)

9 THE CHAIRMAN: All in favor, signify by saying  
10 Aye. Contrary, No.

11 The Ayes have it. So ordered.

12 (The mace was replaced by the Sergeant at Arms.)

13 (Whereupon, at 6:40 p.m., the Committee of the  
14 Whole rose, and the Convention reconvened.)

15 THE PRESIDENT: The Convention will please come  
16 to order.

17 On behalf of the Committee of the Whole, the  
18 Chair reports that the Committee of the Whole has had under  
19 consideration Committee Recommendation SF-3 and that it has  
20 approved Committee Recommendation SF-3. That the Committee  
21 of the Whole has also had under consideration Committee  
Recommendation No. SF-4 and that it has approved Committee





1 Recommendation SF-4.

2 Committee Recommendation SF-3 and SF-4 are  
3 referred to the Committee on Style, Drafting and Arrange-  
4 ment.

5 The Chair has been requested to have the reading  
6 clerk read an announcement. Will you please read this  
7 announcement?

8 MR. QUILLEN: Announcement by Delegates E. J.  
9 Clarke and Claggett.

10 Mr. President, Ladies and Gentlemen of the Con-  
11 vention:

12 It is with deep regret that we note the death on  
13 December 3rd of T. Howard Duckett. We commend to you the  
14 Washington Post editorial of December 5, 1967, entitled  
15 "T. Howard Duckett", which reads in part as follows:

16 "Suburban Maryland had not yet emerged from its  
17 turn-of-the-century slumber when T. Howard Duckett began  
18 his long career. He sensed that growth would come and  
19 offered great opportunities. In Mr. Duckett's view, politi-  
20 cal calm was essential to economic growth. His death, at  
21 87, deprives the suburbs of one of the great captains of



1 their growth."

2 THE PRESIDENT: Are there any committee chairmen  
3 with announcements to make?

4 Delegate Morgan.

5 DELEGATE MORGAN: Mr. President, the meeting  
6 scheduled for the Executive Branch Committee immediately  
7 after this session has been cancelled. I think it will  
8 be sometime tomorrow when it will be held.

9 THE PRESIDENT: Any other announcements by com-  
10 mittee chairmen?

11 Delegate Penniman.

12 DELEGATE PENNIMAN: Meeting of the Committee on  
13 Style has not been cancelled. We will meet at about ten  
14 after eight this evening.

15 THE PRESIDENT: Any other announcements by com-  
16 mittee chairmen?

17 Any other announcements by other delegates?  
18 Any delegates present now not present at roll call may  
19 indicate their presence on supplemental roll call. The  
20 Clerk will record the supplemental roll call.

21 As all of you know, the first item on the



1 agenda for the Committee of the Whole tomorrow is consid-  
2 ration of Committee Recommendation S&E-2 and following  
3 that consideration of Committee Recommendation R&P-1. The  
4 Chair would hope to conclude the consideration of Committee  
5 Recommendation S&E-2 in the morning or shortly thereafter  
6 and be well into consideration of Recommendation R&P-1 --

7 Delegate Sherbow.

8 DELEGATE SHERBOW: Mr. Chairman -- Mr. President,  
9 rather --

10 THE PRESIDENT: Sorry. There is for considera-  
11 tion Committee Recommendation SF-5 that will come ahead of  
12 S&E-2. The Chair recognizes Delegate Powers.

13 DELEGATE POWERS: Mr. President, I move we  
14 adjourn until 10 o'clock tomorrow morning.

15 THE CHAIRMAN: All in favor, signify by saying  
16 Aye. Contrary, No.

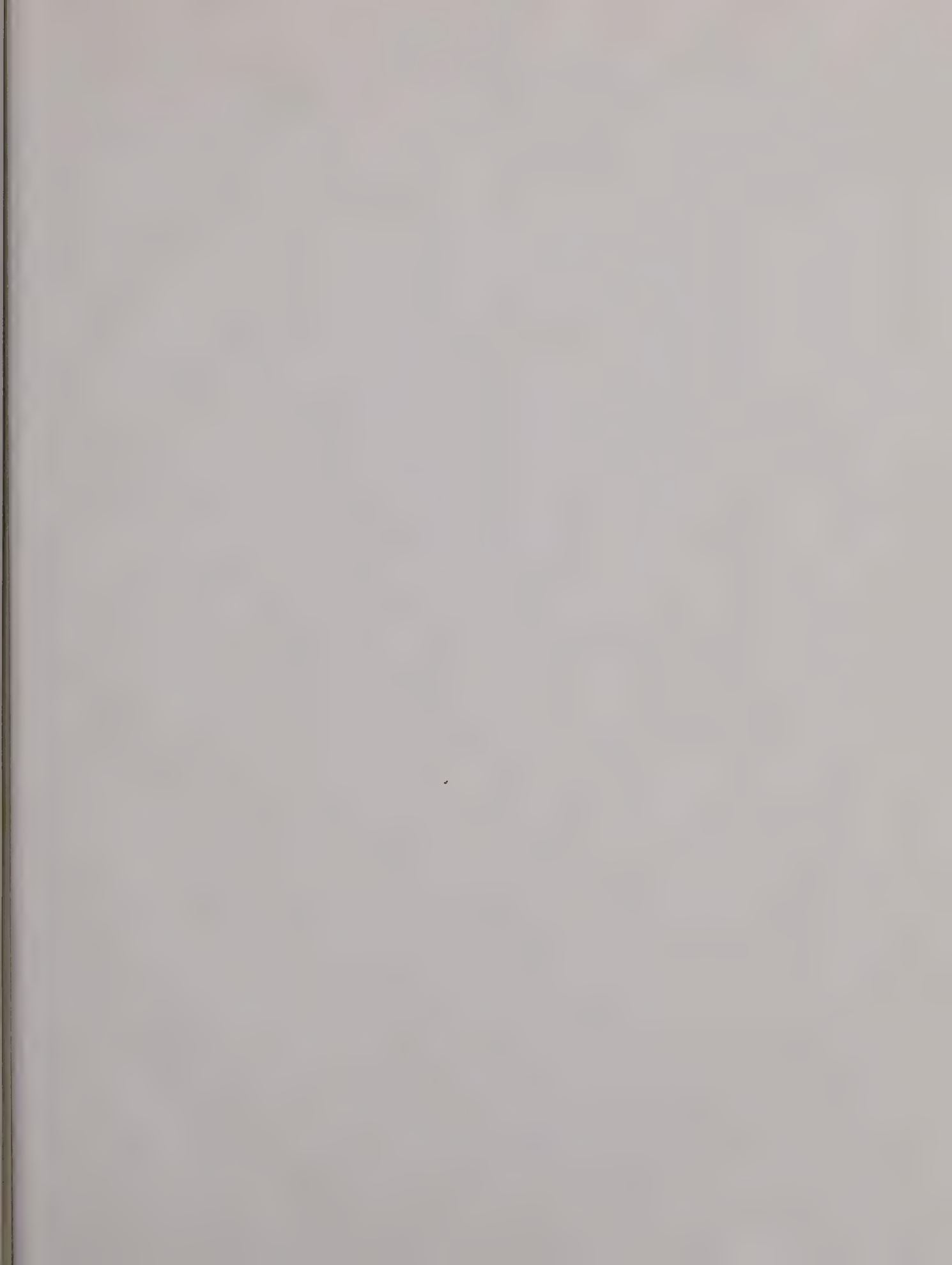
17 The Ayes have it.

18 So ordered.

19 (Whereupon, at 6:45 o'clock p.m., the Convention  
20 was adjourned to reconvene at 10:00 o'clock a.m., Wednesday,  
21 December 6, 1967.)



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